SUPREME COURT OF THE UNITED STATES.

No. 115.

CHARLES BALLANCE, APP'T,

vs.

ROBERT FORSYTH, LUCIENE DUMAIN, AND ANTOINE R. BOUIS.

APPEAL FROM THE CIRCUIT COURT U. S. FOR THE NORTHERN DISTRICT OF ILLINOIS.

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GIDEON, Print.

UNITED STATES OF AMERICA,
Northern District of Illinois, ss.

Pleas in the Circuit Court of the United States for the northern district of Illinois, in chancery sitting at the city of Chicago, in the district aforesaid, before the Honorable Thomas Drummond, judge of the district court of the United States for the said northern district of Illinois, and in the absence pro tempore of the Honorable John McLean, one of the justices of the Supreme Court of the United States of America, sole judge of the said circuit court, on Thursday the eleventh day of December, in the October term of said court, in the year of our Lord one thousand eight hundred and fifty-six, and of our independence the eighty-first year.

CHARLES BALLANCE
vs.
ROBERT FORSYTH,
LUCIENE DUMAIN, and
ANTOINE R. BUOIS. } In Chancery.

Be it remembered, that heretofore, to wit, on the fourteenth day of July, in the year of our Lord one thousand eight hundred and fifty-four, came the said Charles Ballance, complainant, in person, into the clerk's office of the circuit court of the United States for the district of Illinois, and filed in said clerk's office his bill of complaint against the said defendants, in the words and figures following, to wit:

To the Honorable John McLean and Thomas Drummond, judges of the circuit court of the United States for the district of Illinois, in chancery sitting:

Humbly complaining, showeth unto your honors your orator, Charles Ballance, that long prior to the year A. D. 1832, one John L. Bogardus was an actual settler and occupant of the southeast fractional quarter of section *of section* nine, in township eight north, of range eight east of the fourth principal meridian. That on the fifth day of April, A. D. one thousand eight hundred and thirty-two, the Congress of the United States passed a pre-emption law, commonly called the Pre-emption act of 1832, granting pre-emption rights to actual settlers, which act is hereby referred to and prayed to be made part hereof.

Your orator further showeth unto your honors, that on the fourth day of August, A. D. one thousand eight hundred and thirty-two, said Borgardus appeared at the land office at Quincy, in the State of Illinois, and claimed a pre-emption right to said tract of land, pursuant to said act, and filed in said office such affidavits; and such proceedings were there had, that the register and receiver of said office adjudged

said Bogardus to be entitled to a pre-emption right to said tract of land, and granted him two certificates thereof—a copy of which is hereunto attached and prayed to be made a part hereof; but your orator further shows unto your honor that at that time no plat of said township had been furnished by the surveyor general at St. Louis to said register and receiver of said land office, and for that reason said tract of land could not then be entered (that is, purchased) from the United States. But afterwards, to wit, on the fifteenth day of November, A. D. eighteen hundred and thirty-seven, the said plats having been received at said land office, the register and receiver thereof sold said tract of land to said Bogardus, pursuant to said act, for the sum of one dollar and twenty-five cents per acre, as will more fully appear by the certificate of the register of said office, a copy of which is hereunto attached and prayed to be made a part hereof, and the original of which will, if required, be produced on the trial of this cause.

Your orator further shows unto your honor, that on the fifth day of January, A. D. eighteen hundred and thirty-eight, a patent was issued by the United States to said Bogardus for said tract of land, a copy of which is hereunto attached and prayed to be made a part hereof, the original of which is not and never has been in the possession or power of your orator; but he has a copy thereof, certified by the Commissioner of the General Land Office to be a true copy, which will be shown to your honor on the trial of this cause.

Your orator further showeth unto your honor, that on the fifth day of August, A. D. eighteen hundred and thirty-four, said Bogardus conveyed said tract of land to one Isaac Underhill by a deed, a copy of which is hereunto attached and prayed to be made a part hereof, the original of which your orator has seen, but it is not in his possession or power; but a copy thereof, from the recorder's office of Peoria county, certified by the recorder thereof to be correct, he has and will produce on the hearing of this cause if required.

Survey of Bigelow and Underhill.

Your orator further showeth unto your honors, that in the year A. D. eighteen hundred and thirty-six, said Underhill, in connection with one Bigelow, who had become in some way interested in the premises, procured said tract of land to be surveyed by Thomas Phillips, the then surveyor of Peoria county, into streets, alleys, blocks, and lots, and called it Bigelow and Underhill's addition to Peoria, and after having said plat certified by said surveyor, they acknowledged it before a proper officer, and had it recorded by the recorder of said county, pursuant to the statute of Illinois in such case made and provided; all of which will more fully and at large appear by reference to a copy of said plat certified by said recorder, which is hereunto attached, and prayed to be made part hereof.

Possession of Compl't.

Your orator further showeth unto your honors, that when said Bo-

gardus was in possession of said tract of land, prior to the fifth of April, A. D. eighteen hundred and thirty, there were others in possession of said tract, whose possessions and claims your orator bought, and under said purchases went into possession thereof about the first of January, A. D. eighteen hundred and thirty-four; also claiming a right of possession to all of said tract. Your orator lived on lot one, in block fifty-one, according to said plat, and had all lots, one, two, three, and four, in fifty-one, and lots seven, eight, nine, and ten, in block thirty-four, enclosed as appurtenant to said house; that a dispute arose between said Bigelow and Underhill and your orator, respecting their pre-emption rights to said tract of land, and they mutually submitted their claims to the arbitrament of three arbitrators, whose decision it was agreed between said parties should be final; and said arbitrators took upon themselves, in the month of February, eighteen hundred and thirty-eight, the said duty *or* arbitrators, and did then and there decide, among other things, that your orator should have said lots one and two, and that said Bigelow and Underhill should convey the same to your orator by a deed of quit-claim, and said Bigelow and Underhill then and there acquiesced in said decision of said arbitrators, so far as respected the possession and right to said lots one and two, and your orator has been in possession of said lots one and two, from that day to this, and no one, except Robert Forsyth, Anthony R. Bouis, and Lucien Dumain, (who are hereby prayed to be made defendants to this bill,) have since said arbitrament pretended to claim said lots, or either of them, adversely to your orator, and they have no claim derived from said Bogardus, Bigelow or Underhill.

Arbitration.

Purchase from Underhill.

Your orator further showeth unto your honors, that on the first day of February, eighteen hundred and forty-two, he purchased of said Isaac Underhill said lot three, in block fifty-one, and received from him a deed therefor, which was regularly acknowledged before George B. Parker, who was then a justice of the peace, duly commissioned and qualified; which deed was afterwards, to wit, on the seventh day of July, A. D. 1845, recorded in the recorder's office of Peoria county, a copy of which deed, together with the certificates of said justice of the peace, are hereto annexed, and prayed to be made a part hereof, the originals whereof will be produced, if called for, on the trial of this cause.

Purchase from Underhill.

Your orator further showeth unto your honor, that on the seventh day of July, A. D. 1841, he purchased of said Underhill said lots seven, eight, and nine, in block thirty-four, and then and there received from him a deed for the same, which was properly acknowledged before Dennis Blakely, who was then and there a justice of the peace of Peoria county, and recorded in the recorder's office of the same

county, a copy of which deed, together with the certificate of said justice and recorder, are hereunto attached, and prayed to be made a part of this bill, the original of which will, if called for, be produced in court on the hearing of this cause.

Proceedings in Tax sales.

Your orator further showeth unto your honor, that after the making of said plat by said Underhill, in the name of said Bigelow and Underhill, there was a suit pending in said Peoria circuit court, wherein Ellen Frisby and others were plaintiffs, and your orator was defendant, in which said court decided that said Underhill acquired no title to any part of said land by virtue of said deed from said Bogardus to him, which decision was afterwards reversed by the supreme court of Illinois; but during the time that elapsed after said deed was decided void, and the before reversal of said decision, to wit, in the year eighteen hundred and forty-three, the assessor of said Peoria county assessed said real estate as land, and not as town lots, and assessed the sum of about twenty-one dollars as the taxes due the State of Illinois and county of Peoria for that year; and neither said defendants nor your orator, nor any one else, paying the same or any part thereof, Smith Frye, who was then sheriff and ex-officio collector of said county, returned said land to the clerk of the circuit court of said county as non-resident delinquent land, and the said circuit court thereupon, to wit, at the May term, A. D. 1845, of said court, entered a judgment against said land for said sum so assessed against it. And afterwards, to wit, on the seventh day of June, A. D. 1845, the clerk of said court issued a precept to said sheriff, ordering him, among other things, to sell said tract of land for the taxes aforesaid, together with the interest and cost thereon accrued. And afterwards, to wit, on the ninth day of June, A. D. 1845, the said Smith Frye, as sheriff as aforesaid, did expose to public sale said tract of land at the door of the court-house in said county, in conformity with all the requisites of the statute in this case made and provided, the tract of land above described, for the satisfaction of the judgment so rendered as aforesaid; and at the time and place aforesaid, your orator bid the sum of twenty-one dollars and forty cents for one acre off the east side of the said tract of land, which was the least quantity bid for, and the said one acre was stricken off to your orator at that price. All which will more fully and large appear by a copy of all the proceedings in the circuit and county courts of Peoria county, in the State of Illinois, on that subject, which is hereunto attached, and prayed to be made a part hereof.

Your orator further showeth unto your honor, that no one ever redeemed said land from said sale, and that consequently, afterwards, to wit, on the sixteenth day of June, A. D. 1847, said Frye executed to your orator a deed therefor, which was duly acknowledged before Jacob Gale, the clerk of said Peoria county, a copy of which deed and certificate are hereto attached, and prayed to be made a part hereof,

the original of which will be produced in court, on the trial hereof, if called for.

Compher's Deed.

Your orator further showeth unto your honor, that at the time that the right of redemption had expired to said acre, said Frye's term of sheriff of said county having expired, and one William Compher having been elected and duly qualified as sheriff of said county, and having taken upon himself the performance of the duties of said office, executed to your orator a deed for said premises, and duly acknowledged the same before said clerk, which deed and certificate of acknowledgment are hereto annexed, and prayed to be made part of this bill; the original of which deed and certificate will be produced in court, on the trial of this cause, if called for.

The Interference.

Your orator further showeth unto your honor, that a portion of said acre is *idencal* (identical?) and interferes with a portion of the ground claimed and sued for by said defendants, as hereinafter set forth, as will more fully and at large appear by a plat of said ground, which is hereto attached, and made a part hereof.

City Tax-title.

Your orator further showeth unto your honor, that said premises are within and constitute a portion of the city of Peoria, and that said city, by her Mayor and Aldermen, in the year A. D. 1844, levied a tax on said lots seven, eight, and nine, in block thirty-four, and lot six, in block thirty-eight, and lot eleven, in block forty-three, and said lots one, two, and three, in block fifty-one, and said tax remaining unpaid, said lots were offered for sale by the authority of said Mayor and Aldermen, at the door of the court-house, in said city, (after having duly advertised the same,) on the twentieth day of November, A. D. 1844, for said taxes, and the interest and costs thereon accrued, and your orator became the purchaser of said lots by having bid for each of them more than any other person, and the same were knocked off to him for the amount of said bids, which he then and there paid to said city, to wit, the sum of forty-seven dollars and thirty-five cents, and said lots remaining wholly unredeemed from said sale, the mayor of said city, to wit, Charles T. Stearns, afterwards, to wit, on the twentieth day of May, 1846, executed to your orator a deed therefor, and acknowledged the same before Jonathan K. Cooper, who was then a justice of the peace within the city and county of Peoria, a copy of which deed and certificate of said justice are hereto attached, and prayed to be made a part hereof; the originals of which will, if called for, be produced in court on the trial of this case.

Complainant's Possession.

Your orator further showeth unto your honors, that, besides the prior possession of those under whom he holds, he has himself been in the

possession of the premises hereinafter described, as claimed by said defendants, ever since the beginning of the year eighteen hundred and thirty-four, and is still in possession of the same; wherefore your orator charges that he is, in law and equity, the owner in fee of said premises, and ought in good conscience to be permitted to enjoy the same in peace.

Actions of Ejectment.

But your orator further showeth unto your honor, that said defendants brought two actions of ejectment against your orator's tenants, which afterwards were consolidated, by consent, so as to make your orator defendant, and draw into controversy so much of lots forty-seven and sixty-five (which will be hereinafter explained) as interferes with said lots seven, eight, and nine, in block thirty-four, and lots one, two, and three, in block fifty-one; all of which will more fully and at large appear by reference to the record and papers in said cause, which is referred to, and prayed to be made a part hereof.

Decision of the Supreme Court.

Your orator further shows unto your honor, that at the term of this court, in the year A. D. 18 , said cause, thus consolidated, came on to be heard in this honorable court, and was decided against your orator; whereupon your orator sued out a writ of error from the Supreme Court of the United States, and at the last term of said court a decision was made in said Supreme Court sustaining the decision which had been made in this court, but by said decision your orator is not precluded from his relief in equity; but an intimation seems to be made by the court, in giving said opinion, that this is the proper form in which to seek such relief.

Def'ts' Case at Law.

Your orator further showeth unto your honor, that in the trial of said cause said defendants relied upon two distinct titles. They offered—

1st, in evidence, an act of Congress passed May 15th, 1820, which is prayed to be made a part hereof.

2d. An act passed March 3d, 1823, which is prayed to be made a part hereof.

3d. A patent to the legal representatives of Louis Le Bonshier, a copy of which is hereto annexed and prayed to be made a part hereof.

4th. A plat of the lots of the French village, as surveyed by Brown and approved by the surveyor general in 1840, a copy of which is hereto annex and prayed to be made a part hereof.

5th. A separate plat of lot forty-seven in said survey.

6th. The depositions of Mrs. Mette and Mr. Fontaine, who proved Bourbonne's possession prior to 1812. These depositions were taken before the consolidation in the Bourbonne case. The depositions of Fontaine, taken to be read in the Le Bousier case, for lot forty-seven, proves that Le Bousier killed himself a year or two before he (witness)

went to live in Peoria, which was in 1799; and that his family was then residing in the house in which he killed himself. "Louis Le Boushier had three children by his wife Josette Desmonchelle." "I don't recollect the names of the boys; they died young; but the girl's name was Magdalene. She is still alive. She first married Antoine Lapense. *He* (her?) second husband was Joseph Touchette. They lived in St. Clair county, in the State of Illinois. Touchette has been dead some four or five years, and his widow has married a third time. The name of her present husband I do not know." "Le Boushier's widow married Hyolite Maillet. She is now dead." Mrs. Mette, in the same case, testified that "In the evening before he (Le Boushier) killed himself he told me (witness) he was going a long journey, and asked me to make him a shirt. I did so. The next morning he was found dead in his house. He had on the shirt I had made for him. He had shot himself in the head." "He had three children, two sons and one daughter. Their names were Louis or Louison, Paschal, and Magdalene. The two boys died young, before they were grown up. Magdalene married Antoine Lapense. She married a second time, to Joseph Touchette. I have heard that she married a third time, but I don't know the name of her husband. Louis Le Boushier's widow's name was Josette Desmonchelle. She married Hypolite Maillet. She has been dead many years ago."

7th. A deed from Joseph Touchette and wife to said defendants, a copy of which is hereto attached and prayed to be made a part hereof.

8th. A patent to Antoine Bourbonne, a copy of which is hereunto annexed and prayed to be made a part hereof.

9th. A separate plat of lot 65, a copy of which is hereunto attached and prayed to be made a part hereof.

10th. A deed from said Bourbonne to said defendants, a copy of which is hereunto annexed and prayed to be made a part hereof.

Both Patents charged to be void in Equity.

Your orator further shows unto your honor, that both of said patents under which said defendants claim title are void in equity, if not in law, for the following reasons:

1st. The ground patented to the patentees is not the ground granted them by said law of 1823, nor is it located in the same quarter section. The land sued for is a part of the southeast quarter of the section, whereas the land they had actually resided on, and which was claimed at the land office, was a part of the northeast quarter. To make this perfectly plain, a copy of the plat which was made at the land office at Edwardsville, in 1820, and which was the foundation of the law of 1823, is hereto attached and prayed to be made a part hereof. Also a copy of a plat made by George C. McFadden, while county surveyor of Peoria county, in which the connection of the French claims, as surveyed by Brown and claimed by defendants, is shown in connection with the Bigelow and Underhill lots, is hereto annexed and prayed to

be made part of this bill. The only permanent object referred to in Coles' plat, by which the locality of the lots can be fixed, is Fort Clark. By reference to this plat, its locality will be found to be on the line between lots 42 and the one marked 11 and 41, just the width of one lot, or 85½ feet English measure, below the south line of lot 47; but by turning to McFadden's plat, which represents the French lots according to Brown's plat, approved by the surveyor general Sept. 1st, 1840, in connection with Bigelow and Underhill's plat, it will be seen that the upper side of lot 65 is 25½ feet below the lower corner of the fort, which proves conclusively that this lot is the width of two lots, or one hundred and seventy-one feet added to twenty-five and a half feet below where it should be, to say nothing of the width of Fort Clark, which was more than one hundred feet square.

2d. The lots claimed and proved before the register and receiver were "a half arpent of ground;" whereas each of said patents is for a greater quantity. A half arpent of ground is equal to 18,528 English square feet; whereas the land granted is 27,431 square feet, just 8,903 square feet more than claimed or proved, all which will fully appear by comparing said patents with the report of Edward Coles, in the 3d vol. American State Papers, which report is hereby referred to, and prayed to be made a part hereof.

3d. The lots as claimed and proved were bounded by lines running to the cardinal points; whereas, as Brown has surveyed them, and as they are patented, the lines run about at an angle half way between those points.

4th. The second section of said act of 1823 provides that "it shall be the duty of the surveyor of public lands of the United States for that district to cause a survey to be made of the several lots, and to designate on a plat thereof the lot confirmed and set apart to each claimant;" but the plats which were the foundation of these patents show no such thing. Instead of justifying the issuing of these patents, they show conclusively that they were issued wrongfully. If the plat in the lot forty-seven proves anything, it proves that Hypolite Maillet was entitled to the lot; and if the plat in the other case proves anything, it is, that Antoine Bourbonne and Louis Penconneau were jointly entitled to this lot. They both claimed and filed proofs; both their numbers are inserted in Brown's plat, and both their names and numbers are inserted in Coles' plat, and on the Bourbonne plat there is an endorsement showing that it was confirmed to both; and your orator charges that there is an entry in the books of the surveyor general at St. Louis which he has seen, and he believes, and therefore charges, that the same entry is in the books of the Commissioner of the General Land Office at Washington city, showing that said lot was confirmed as well to Penconneau as to Bourbonne.

5th. Neither of these claimants filed proof enough within the time fixed by law, and they could not afterwards mend their cases, especially after titles had vested in others. Neither of them filed any proof to show that they had not "received a confirmation of claims or dona-

tion of any tract of land or village lot from the United States;" and this the Commissioner of the General Land Office adjudged to be fatal, but decided that they might supply the proof at the time or immediately before the patent issued, which your orator believes and therefore charges was illegal. Your orator admits that pursuant to said decision of said Commissioner, to wit, on or about the sixteenth day of August, 1845, said defendants filed in the land office at Edwardsville an affidavit of one Felix Fontaine, and upon the issuing thereof, and on no other proof except what had been filed in said office in 1820, said patents to said Bourbonne and the representatives of said Le Boushier were issued, but your orator shows unto your honor that said affidavit is wholly deficient for the purpose for which it is filed. All that said affidavit (which is very long and contains much that is foreign to this point) says on this subject is in these words: "The deponent further states that he does not know whether the said Antoine Bourbonne is either living or dead. Deponent states that said Antoine Bourbonne never received any donations or grants from the government of the United States prior to the year 1823." "Deponent knows that said Le Boushier, Magdalene [his daughter] Lapance, and Touchette [her husband] never received any donations or grants from the government of the United States prior to 1823." This all may have been true, and still neither of said parties entitled to a patent. They may not have received a grant from the government, and *and* yet have received confirmation of Spanish or French grants, or Spanish or French concessions, or other claims that had not been carried into grants. With regard to said Le Boushier, it is charged that he was within the excluding clause, and as proof of this the American State Papers, same vol., page 277, and also 2 vol. of American State Papers, 172, are referred to as conclusive proof. But the exclusion is of all those who had received confirmations or donations prior to the passage of the act which on the third day of March, 1823, whereas the affidavit only states they did not receive any "donations or grants" "prior to 1823." Perhaps they received them between the last of December and third of March.

6th. Since February, 1831, Peoria has not been in the Edwardsville land district; consequently the filing of affidavits there or the issuing of a patent certificate by the register of said office, or the issuing a patent on such certificate, was merely void; and your orator charges that no plats, affidavits, or other evidence had ever existed at the Quincy land office on the subject of said lots 47 and 65, nor was there any official evidence there of their existence before the patents therefor were issued, nor was any decision respecting them ever made at said office, nor was there any patent certificate ever issued from said office for either of said lots.

7th. The Le Boushier's patent is presumed to be void, because he was not "a claimant" of that or any other lot, but had committed suicide many years before. Nor was any one entitled to that lot under that act, because, in the first place, it had long before been abandoned;

and for the further reason that the only person who claimed was Hypolite Maillet; and were there no other objection to this lot being granted to him, the fact that he claimed another lot and received a patent for it from the United States, to wit, lot forty-nine, which your orator charges to be the fact, would preclude him under that law from receiving another.

Subject previously examined and ground found not to interfere.

Your orator further showeth unto your honors, that before said village was surveyed by said Brown, and the plat referred to in said defendants' patent was made, your orator had carefully examined the records at *Edwards* with regard to said French claims, and had with his own hands copied the plat that accompanied the report of said Coles, register said office, and also an abstract of all said claims, and had compared it with the ground and found that said claims 47 and 65 were not upon said southeast, but upon the N. E. quarter of said section, and when said plat was approved which located said lots on your orator's possessions, he had been living on said ground nearly seven years, and had various lasting improvements thereon, and various houses have been built on them since, amounting to a large sum of money; but how much have been built before, and how much since the commencement of these suits, your orator has not the means of knowing, but several houses were built thereon before, and several since the commencement of said suits. Said improvements were all made by your orator, or by persons holding under him.

Agreement to amend, &c.

Your orator further showeth unto your honor, that after the *the* commencement of said suits it became desirable on the part of the plaintiffs below, who were defendants here, to amend their said declarations so as to insert the name of said Bouis, which had been left out, and your orator agreed, in consideration that said defendants would agree to permit your orator and his said tenants to erect buildings on said premises during the pendency of said suit and remove them off afterwards in case they [said plaintiff] should succeed in said suits, to permit said alteration to be made, and said defendants, by H. O. Merriman, their attorney, and your orator entered into an agreement, a copy of which is hereto annexed, and prayed to be made a party hereof.

Wherefore, your orator charges that, by reason of the premises, he is in equity and good conscience the rightful owner of said ground, for which said actions in ejectment were brought, and said judgment was entered against your orator as aforesaid, and that the said defendants ought to be perpetually enjoined from setting up said title at law, thus unconscientiously obtained.

Your orator further charges that he has been informed and believes, that Robert Forsyth, one of said defendants, has procured a certified copy of the judgment of said supreme court, with the intention of

obtaining from this honorable court a writ of possession founded thereon to dispossess your orator and his tenants from said premises, and if not restrained by this honorable court, will do so without any compensation to your orator or his said tenants for said valuable improvement, or permitting them to remove from said premises said valuable improvements that have been put thereon pursuant to said agreement.

All of which actings and doings of the said defendants are contrary to equity and good conscience, and tend manifestly to the injury of your orator. Forasmuch, therefore, as your orator is without remedy by the strict rules of the common law, and is relievable only in a court of equity, where matters of this kind are properly cognizable and relievable: to the end, therefore, that the said defendants may, if they can, show why your orator should not have the relief hereby prayed, and may upon their several and respective corporal oaths, and according to the best and utmost of their several and respective knowledge, remembrance, information, and belief, full, true, and perfect answer make to all the several interrogatories hereinafter numbered and set forth, that is to say:

1st. Whether the statements in said bill respecting the possession, pre-emption right, and title of said Bogardus and your orator, and those under whom your orator claims, are not true as set forth therein?

2d. Whether said land was not sold for the taxes due thereon as set forth in said bill, and whether the same was not bought by your orator, and conveyed to him, as set forth in said bill?

3d. Whether the statements in said bill with regard to said city tax title, and the purchase thereof by your orator, are not true?

4th. Whether the statements in said bill respecting the bringing, conducting, and ultimate result of said action of ejectment, are not true?

5th. Whether the statements in said bill respecting the title relied on by said defendants in said action of ejectment are not true; and if they are not, state wherein they are not true.

6th. Are not the facts set forth in said record, from pages 11 to 15 inclusive, and included in numbers from 1 to 7 inclusive, to invalidate said defendants' claims, true; and if any of them are not true, which is not true, and what is the truth in the premises?

7th. Is it not true, that said agreement was made between this complainant and said defendants, with regard to the amending of said declaration and removing said buildings?

And that the said patents to said Bourbonne, and the legal representatives of said Louis Le Boushier, may be decreed to be void and of none effect as against your orator, or said defendants decreed to convey to your orator whatever title they may have derived through said patents; and that the said defendants be perpetually enjoined from taking possession of said premises, or in any way disturbing your orator's possession thereto, at least until they shall have paid and compensated your orator for all the lasting and valuable improvements that were erected as aforesaid on said premises before said actions of eject-

ment were commenced, and given their permission and a reasonable time for the removal of such buildings as have been put on said premises pursuant to said agreement.

May it please your honors to grant unto your orator, not only a writ of summons, to be directed to said defendants, commanding them and each of them, upon a certain day, and under a certain penalty therein to be provided, to be and appear in this honorable court, then and there full, true, and perfect answers to make as aforesaid, but also a writ of injunction to be issued as aforesaid, enjoining said defendants, and each of them, their agents, servants, and attorneys as aforesaid, and that your orator may have such other and further relief in the premises as to justice shall appertain, and to your honors shall seem meet; your orator will ever pray, &c.

C. BALLANCE.

Your orator further charges, that in A. D. eighteen hundred and twenty-three, when said act was passed, authorizing those claims to be surveyed, the remains of the houses and fences of the inhabitants were plainly to be seen, and a surveyor would have had but little trouble in ascertaining the true position of said lots, and connecting them with the public surveys; but on account of lapse of time and changes made by emigrants when Brown's survey was made in 1837, it was not easy to find the locality of said lots, and as a matter of fact said Brown, when making said surveys, professed not to be bound by said report of said register, but he publicly avowed that he considered himself to have a discretion in the matter, and when he did not know the locality of a lot, he, to use his own language on the occasion, placed it "about the place," and gave the party "about the quantity" claimed and proved.

Your orator charges that it was of great importance to said plaintiffs to have said suits consolidated, and the name of said Bouis inserted, because by so doing they saved the expense of three suits. Besides the advantage of conducting one of said suits instead of both, they would otherwise have been under the necessity of bringing two more suits to recover the third part shown by the deeds to be in Bouis. Besides, the longer the delay, the more danger from the death of witnesses, and running of statutes of limitation; yet, although said defendants have received the benefit of said agreement, they have denied the authority of said Merriman to make said agreement, and intend to repudiate the same, and dispossess your orator, without either paying for said improvements that were made before said suits were commenced, or permitting those made since to be removed. Whereas your orator charges that said Merryman was the attorney at law that brought said suits, and was present at the trial thereof, prosecuting the same, and had power to execute said agreement; but whether, as a question of law, he had or had not such power, your orator charges that as said Forsyth, acting for himself and the other plaintiffs, was present, and silently received all the benefits of said agreement, it is contrary to equity and good conscience for said plaintiffs to be permitted to sue out a writ of possession,

and have the same executed without giving a reasonable time to remove all the houses and their appurtenances (that would come under the appellation of buildings) off said land.

C. BALLANCE.

Your orator prays to be permitted to make the following allegations, in amendment to this bill, to wit: Your orator charges, that if in the opinion of this honorable court he is not in equity entitled to have said judgment at law perpetually enjoined, he is nevertheless entitled to the benefit of the equity of the Illinois action of ejectment, to wit: to have the value of said lands, and the improvements, rents, issues, and profits, ascertained by seven commissioners appointed by the court, and the whole matter adjusted according to said statute, as the same is set forth at large on pages 211 and 212 of Illinois Revised Statutes for 1845; wherefore your orator prays that no writ of possession issue to said defendants in said action of ejectment until they submit to have said appraisers appointed, and said appraisements made, and improvements paid for, according to the provisions of said statute, and your orator hereby offers on his part to submit to the appointment of said appraisers if said defendants will do so.

C. BALLANCE.

Certificate of S. Alexander, Register.

Copy certificates of pre-emption referred to on page 1.

LAND OFFICE, QUINCY, ILLINOIS, *Nov.* 17, 1832.

SIR: Yours of the 31st ultimo was duly rec'd, and in reply thereto I have to say that your proof of pre-emption has been duly received previous to the 5th Oct., partly by Mr. Bigelow, and partly by mail, which were adjudged in this office to be sufficient.

Very respectfully, your humble and obedient servant,

SAM'L ALEXANDER.

JOHN L. BOGARDUS, Esq.

Certificate of same.

LAND OFFICE, QUINCY, *January* 4, 1833.

I hereby certify that on the 4th day of August, 1832, John L. Bogardus, of Peoria, in the State of Illinois, filed in this office evidence of his right of pre-emption to the southeast fractional quarter of section nine, in township eight north, range eight, east of the fourth principal meridian, under the act of Congress of April 5, 1832.

SAM'L ALEXANDER, *Register.*

Certificate of Entry.

Copy of a certificate of purchase referred to on pages 1 and 2.

LAND OFFICE, QUINCY, ILL., *15th November*, 1837.

It is hereby certified that John L. Bogardus, of New York, did this day enter or purchase the southeast fractional quarter of section No. 9, in township No. eight north, of range No. eight, east of the 4th principal meridian, containing twenty-three $\frac{93}{100}$ acres, as appears of record in this office.

SAMUEL LEECH, *Register.*

Holmes's Certificate of Purchase.

Copy of a certificate of purchase referred to on page 2.

LAND OFFICE, QUINCY, ILL'S, *2d June*, 1848.

I hereby certify that it appears from the records of this office that the legal title to the southeast fractional quarter of sec. 9, in township 8 north, of range 8, east of the 4th principal meridian, in the district of lands subject to sale at this office, was on the fifth day of August, 1834, and during the whole of said month, in the United States, and had not been previously sold by the United States, but was subsequently sold, to wit, on the 15th of November, 1837, to John L. Bogardus, under the provisions of the pre-emption act of 1832.

SAM'L HOLMES, *Register.*

Bogardus's Patent.

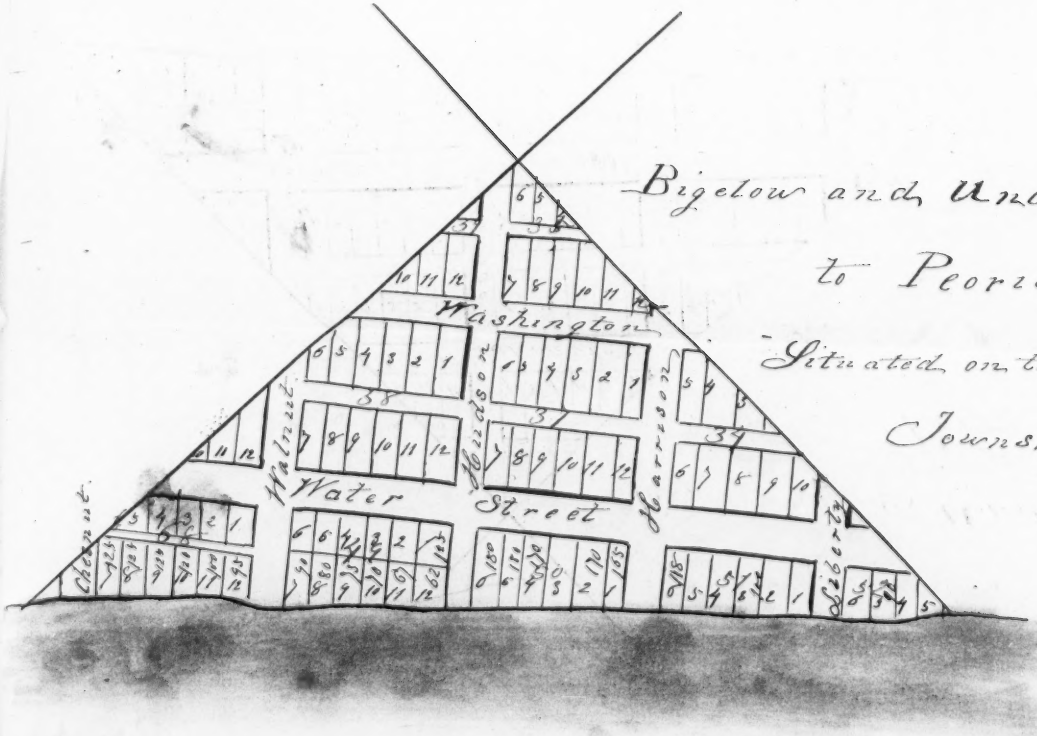
Bogardus's Patent, referred to on page 2.

Certificate No. 13,258.

The United States of America to all to whom these presents shall come, greeting:

Whereas John L. Bogard*ies*, of New York, county New York, has deposited in the General Land Office of the United States a certificate of the register of the land office at Quincy, whereby it appears that full payment has been made by the said John L. Bogard*ies*, according to the provisions of the act of Congress of the 24th of April, 1820, entitled "An act making further provision for the sale of the public lands," for the southeast fractional quarter of section nine, in township eight north, of range eight east, in the district of lands subject to sale at Quincy, Illinois, containing twenty-three acres and ninety-three hundredths of an acre, according to the official plat of the survey of the said lands returned to the General Land Office by the surveyor general, which said tract has been purchased by the said John L. Bogard*ies*:

Now know ye, that the United States of America, in consideration of the premises, and in conformity with the several acts of Congress,



Bigelow and Underhill's Addition

to Peoria

Situated on the S. E. Sect gr.

Township 8. N. & 6 E. P.M.

in such case made and provided, have given and granted, and by these presents do give and grant, unto the said John L. Bogard*ies*, and to his heirs, the said tract above described, to have and to hold the same, together with all the rights, privileges, immunities, and appurtenances, of whatsoever nature, thereunto belonging, unto the said John L. Bogard*ies*, and to his heirs and assigns, forever; subject, however, to the rights of any and all persons claiming under the act of Congress of 3d March, 1823, entitled "An act to confirm certain claims to lots in the village of Peoria, in the State of Illinois."

In testimony whereof, I, Martin Van Buren, President of the United States, have caused letters to be made patent, and the seal of the General Land Office to be hereunto affixed. [SEAL.]

Given under my hand, at the city of Washington, the fifth day of January, in the year of our Lord one thousand eight hundred and thirty-eight, and of the independence of the United States the sixty-second.

By the President,

MARTIN VAN BUREN,
By A. VAN BUREN, *Sec'y.*

HUDSON M. GARLAND,
Recorder of the General Land Office.

Recorded vol. 1st, page 149.

Bigelow & Underhill's Plat.

Bigelow and Underhill's plat, referred to on page 3 of the bill.

[*For plat see original, page* 41.]

Deed from Bogardus to Underhill.

Deed from Bogardus to Underhill, page 2.

Know all men by these presents, that I, John L. Bogardus, of Peoria, in the county of Peoria and State of Illinois, in consideration of one thousand and fifty dollars to me in hand paid by Isaac Underhill, of said Peoria, the receipt whereof is *I do* hereby acknowledged, do hereby grant, sell, and convey, unto said Underhill, all my right and interest in and unto the southeast fractional quarter of section nine, in township eight north, range eight east of the 4th principal meridian, in said Illinois, and also in and unto the ferry established across the Illinois river, in said Peoria, together with all the boats and other implements thereunto belonging, to have and to hold the same, to the

said Isaac Underhill, his heirs and assigns forever, with all the privileges and appurtenances thereunto belonging.

In witness whereof I have hereunto set my hand and seal, this fifth day of August, 1834.

JOHN L. BOGARDUS. [L. S.]

Signed, sealed, and delivered in presence of ORIN HAMLIN.

STATE OF ILLINOIS,
Peoria County, ss:

This day personally appeared before the undersigned, an acting justice of the peace, in and for Peoria county, John L. Bogardus, who being personally known to me to be the same person, and acknowledged the within to be his act and deed, for the uses and purposes therein contained.

Given under my hand and seal, this fifth day of August, one thousand eight hundred and thirty-four.

ORIN HAMLIN, *J. P.* [L. S.]

STATE OF ILLINOIS,
County of Peoria.

RECORDER'S OFFICE.

I, Charles Kettelle, recorder of said county, do certify the foregoing is a true copy from the records of said office, as appears of record in said office.

Given under my hand and private seal, (no official being provided,) this eighteenth day of June, A. D. 1849.

CHARLES KETTELLE, [L. S.]
Recorder P. Co.

Deed from Underhill to Ballance.

Deed from Underhill to Ballance, page 4.

This deed, made this seventh day of July, eighteen hundred and forty-one, witnesseth: That Isaac Underhill and Jane S. Underhill, his wife, of the town of Peoria, county of Peoria, State of Illinois, in consideration of one thousand dollars to them paid by Charles Ballance, of the county of Peoria, State of Illinois, the receipt of which is hereby acknowledged, do by these presents grant, bargain, sell, convey and confirm to the said Charles Ballance the following described real estate, viz: Lots No. eight, (8,) nine, (9,) and seven, (7,) in block No. thirty-four, (34,) and lots No. five (5) and six, (6,) in block No. thirty-eight, (38,) in Bigelow and Underhill's addition to Peoria, as laid off in 1836, references being had to plat in recorder's office at Peoria; to have and to hold the aforedescribed premises, with the appurtenances thereunto belonging, unto the said Charles Ballance, his heirs and assigns, forever; the said Isaac Underhill and Jane S. Underhill hereby covenanting that they will warrant and defend the title to the

aforesaid premises to the said Charles Ballance, his heirs and assigns, forever, against all persons claiming by, through or under said Isaac Underhill, John L. Bogardus, and Lewis Bigelow, or either of them, and none others whomsoever.

In testimony whereof, the said Isaac and Jane S. Underhill have hereunto set their hands and seals the day and year above written.

ISAAC UNDERHILL. [L. S]
JANE S. UNDERHILL. [L. S.]

Done in presence of—
DENNIS BLAKELY.

STATE OF ILLINOIS,
County of Peoria, ss.

I, Dennis Blakely, an acting justice of the peace within and for the county aforesaid, do certify that Isaac Underhill and Jane S., his wife, whose signatures appear to the foregoing deed, and who are personally known to me to be the persons described in and who executed the same, did severally acknowledge that they executed the said conveyance for the uses and purposes therein mentioned. And the said Jane S. Underhill having been by me made acquainted with the contents of the said deed, and examined separate and apart from her said husband, acknowledged that she executed the same and relinquished her dower to the premises therein conveyed voluntarily, freely, and without compulsion of her said husband.

Given under my hand and seal this seventh day of July, in the year of our Lord one thousand eight hundred and forty-one.

DENNIS BLAKELY, *J. P.* [L. S.]

STATE OF ILLINOIS,
County of Peoria.

RECORDER'S OFFICE, PEORIA, *July 7th*, 1841.

I, Charles Kettelle, recorder of said county of Peoria, do hereby certify the foregoing deed and certificate of proof are duly recorded in said office in book M, page 81, on this 7th day of July, A. D. 1841

CHARLES KETTELLE,
R. P. Co.

Deed from Underhill to Ballance.

Deed from Underhill to Ballance, page 4.

This deed, made this first day of February, 1842, between Isaac Underhill and Jane S., his wife, of the first part, and Charles Ballance, of the second part, witnesseth: That the said parties of the first part, for and in consideration of the sum of three hundred dollars, the receipt whereof is hereby acknowledged, have granted, bargained, sold and quit-claimed, and by these presents do grant, bargain, sell and quit-claim, unto the said Charles Ballance, his heirs and assigns, lot num-

bered three in block numbered fifty-one, (51,) according to Bigelow and Underhill's addition to the town of Peoria, reference being had thereto, as the same appears upon record in the recorder's office in the county of Peoria, together with all the appurtenances thereunto belonging or in anywise appertaining; to have and to hold the same to the said Charles Ballance, his heirs and assigns, for his and their own proper use and behoof, forever.

And the said parties of the first part, for themselves, their heirs, executors and administrators, the aforesaid lot of ground and appurtenances to the said Charles Ballance, his heirs and assigns, against the claims of themselves and all persons claiming through or under them, or either of them, and against the claims of John L. Bogardus and Lewis Bigelow, and all persons claiming by, through or under them, or either of them, do and will warrant and forever defend, by these presents.

Witness our hands and seals, the day and year aforesaid.

ISAAC UNDERHILL, [SEAL.]
JANE S. UNDERHILL. [SEAL.]

STATE OF ILLINOIS,
Peoria County, ss.

I, George B. Parker, an acting justice of the peace in and for the county, do certify, that on this day appeared before me, Isaac Underhill and Jane S. Underhill, his wife, whose names appear signed to the foregoing deed of conveyance, and who are personally known to me to be the identical persons whose names are subscribed to said deed as having executed the same, and acknowledged that they had executed the same as their voluntary act and deed for the uses and purposes therein expressed. And Jane S., the wife of the said Isaac Underhill, having been by me made acquainted with the contents of said deed, and being by me examined separate and apart from her husband, acknowledged that she had executed the same and relinquished her dower to the premises therein conveyed voluntarily, freely, and without any compulsion of her said husband.

Given under my hand and seal, at Peoria, the 28th day of March, 1842.

GEO. B. PARKER, *J. P.* [SEAL.]

STATE OF ILLINOIS,
County of Peoria.

RECORDER'S OFFICE.

I, Charles Kettelle, recorder of said county, do hereby certify, the within deed is duly recorded in said office, in book P, pages 356 and 357, on this seventh day of July, A. D. 1842.

CHALES KETTELLE, *R. P. Co.*

Tax Title Record.

Copy of Tax Title Record, referred to on page 6.

Be it remembered, that heretofore, to wit, on the twenty-sixth day of May, A. D. 1845, there was filed with the clerk of the circuit court of Peoria county, in the State of Illinois, a report to said court, and certificate of publication thereof by the collector of taxes for the year 1843, for said county, which report and certificate, as it remains placed at the head of the common law docket for the May term, A. D. 1845, of said court, is as follows, to wit:

STATE OF ILLINOIS }
vs.
SUIT FOR TAXES. }

List of Lands and other Real Estate situated in the county of Peoria and State of Illinois, which taxes remain due and unpayable for the year 1843.

Present Owner.	Description.	No. of Acres.	Valuation.	Tax.
	8 N., 8 E. S. W. and S. E. 9.	150	$3,000	$21 00

☞The costs on each of the above tracts of land and town-lots and part town-lots, already accrued, is 10 cents.

Notice is hereby given, that application will be made to the circuit court of Peoria county, at the next term thereof, to be holden at the court-house in the town of Peoria, within and for the county of Peoria and State of Illinois, on the fourth Monday of May next, for a judgment against the lands and town-lots above enumerated, for the taxes and costs due thereon for the year 1843, and for an order to sell the lands and town-lots for the satisfaction thereof; and all such lands and town-lots against which judgment shall be pronounced will be exposed to public sale at the court-house of said county, on the second Monday next succeeding the said term of the said court, for the amount of taxes and costs due thereon for the year 1843.

JULIUS A. JOHNSON,
Collector for the year 1843.

Peoria, February 12, 1845.

We hereby certify that the foregoing was duly published on the 12th of February, 1845, in the Democratic Press, published in Peoria, Peoria county, Illinois, and that the number of transcripts so published corresponds with the number of newspapers printed and distributed for that week.

ZIEBER & SLOAN,
Editors and Proprietors.

STATE OF ILLINOIS, *Peoria County, ss:*

I, Julius A. Johnson, collector of said county for the year 1843, do hereby certify that the above tracts and parts of tracts of land and town lots were assessed for taxes in said county, for State and county purposes, for the year 1843, and that the taxes and costs thereon remain due and unpaid; and that the respective owner or owners have no goods and chattels within my county on which I can levy for the taxes, interest, and costs due and unpaid on the same.

Given under my hand this 26th day of May, 1845.

J. A. JOHNSON,
Collector Peoria County for 1843.

And afterwards, at the same term of said court, the following proceedings were had therein on said report and certificate, to wit:

At a circuit court begun and held at the court-house in the town of Peoria, in and for the county of Peoria, and State of Illinois, on Monday, the twenty-sixth day of May, in the year of our Lord eighteen hundred and forty-five:

Present, the Honorable John Dean Caton, associate justice of the supreme court of the State of Illinois, assigned to perform the duties of judge of the ninth judicial circuit.

STATE OF ILLINOIS, *Peoria County, ss:*

Whereas Julius A. Johnson, collector of said county, returned to the circuit court of said county on the twenty-sixth day of May, A. D. 1845, the following tracts and parts of tracts of land as having been assessed by the assessor of the said county of Peoria for the year 1843, and that the taxes thereon remained due and unpaid on the day of the date of said collector's return; and that the respective owner or owners have no goods and chattels within his county on which the said collector can levy for the taxes, interest, and costs due and unpaid on the following described lands, to wit:

Description.	No. of Acres.	Tax.	Cost.
S. W. and S. E. 9, T. 8 N., 8 E.	150	$21 00	$40 00

And whereas due notice has been given of the intended application for a judgment against said lands, and no owner hath appeared to make defence or show cause why judgment should not be entered against the said lands for the taxes, interest, and costs due and unpaid thereon for the year herein set forth: Therefore, it is considered by the court, that

judgment be, and is hereby, entered against the aforesaid tracts of land and parts of tracts in the name of the people of the State of Illinois for the sum annexed to each tract or parcel of land, being the amount of the taxes, interest, and costs due severally thereon; and it is ordered by the court, that the said several tracts of land, or so much thereof as shall be sufficient of each of them to satisfy the amount of taxes, interest, and costs annexed to them severally, be sold as the law directs.

I, Jacob Gale, clerk of the circuit court within and for the county of Peoria, in the State of Illinois, do hereby certify, that the foregoing is a true and perfect copy of an order of the said court, made at the May term, A. D. 1845.

In witness whereof, I have hereunto set my hand and the seal of said court, this seventh day of June, in the year of our Lord one thousand eight hundred and forty-five. [SEAL.]

JACOB GALE, *Clerk.*

STATE OF ILLINOIS, *County of Peoria, ss:*

By virtue of the foregoing process, I did, with the assistance of the clerk of the county commissioners' court of said county by his deputy, attend at the court-house in the town of Peoria, in said county, on the ninth day of June, A. D. 1845, between the hours of ten o'clock in the forenoon and three o'clock in the afternoon, and sold *ech* [each?] lot or parcel of land described in the foregoing list, at public auction, in the order the same are therein described, by proclaiming the whole lot or parcel of land in each case, with the amount of taxes and costs due thereon, and severally striking them off to the person or persons who would pay the amount due on each parcel of land for *for* the least number of acres, or least quantity thereof. The said clerk kept a register of said sales, in which was entered each lot or parcel of land sold by me as aforesaid, the name of the purchaser or purchasers, his or their place of residence, and the quantity of land sold.

Dated this June 20th, 1845.

SMITH FRYE, *Sheriff.*

STATE OF ILLINOIS, *Peoria County, ss:*

I, Jacob Gale, clerk of the circuit court within and for said county, do hereby certify, that the foregoing is a correct transcript from the proceedings and of said court, in relation to taxable lands, as to S. E. and S. W. nine, township eight north, eight east, as the same remains of record and on file in my office.

In testimony whereof, I hereunto set my hand and affix the seal of said court, at Peoria, this fourth day of December, A. D. 1848. [SEAL.]

JACOB GALE, *Clerk.*

Copy of the Record of said sale, made by the Clerk of the County Commissioners' Court.

And afterwards, to wit, at a sale of lands and town lots in Peoria county, sold on the ninth day of June, A. D. 1845, for taxes and costs due the State of Illinois and county of Peoria, for the year 1843, the following described tracts of land were offered and sold, as appears from the sale book, which is in the following form, to wit:

Names of Purchasers.	Residence.	Acres offered.	Description.	Township.	Range.	Acres sold.	Taxes.	Costs.	Date offered.	By whom redeemed.	Receipt.	Amount redeemed.
* *	*	*	*	*	*	*	*	*	*	*	*	*
Charles Ballance	Peoria County..	150	S.W. & S.E. 7	8 N.	8 E	1	21	40				
* *	*	*	*	*	*	*	*	*	*	*	*	*

I, William Mitchell, clerk of the county commissioners' court within and for the county of Peoria, in the State of Illinois, do hereby certify that the foregoing is truly and correctly taken and copied from the records and proceedings in my office.

[SEAL.] Given under my hand and seal of said court, at Peoria, this 27th day of December, A. D. 1848.

WILLIAM MITCHELL, *Clerk*.

Frye's Deed.

Frye's Deed, referred to on page 6.

Know all men by these presents, that whereas, at the May term, 1845, of the circuit court of Peoria county, a judgment was obtained in said court, in favor of the State of Illinois, against the southwest and southeast fractional quarter of section No. nine, in township eight north, in range eight east, situated in the county of Peoria, and State of Illinois, for the sum of twenty-one dollars and forty cents, being the amount of tax, interest and costs assessed upon said tract of land for the year 1843; and whereas, on the ninth day of June, 1845, I, Smith Frye, then sheriff of the county aforesaid, by virtue of a precept issued out of the circuit court of the county aforesaid, dated the seventh day of June, 1845, and to me directed, did expose to public sale, at the door of the court-house, in the county aforesaid, in conformity with all the requisitions of the statute in such case made and provided, the tract of land above described for the satisfaction of the judgment so rendered as aforesaid; and whereas, at the time and place aforesaid, Charles Bal-

lance, of the county of Peoria, and State of Illinois, having offered to pay the aforesaid sum of twenty-one dollars and forty cents for one acre off the east side of the said quarter of said section No. nine, which was the least quantity bid for, the said tract of land was stricken off to him at that price:

Now, therefore, I, Smith Frye, late sheriff as aforesaid, for and in consideration of the sum of twenty-one dollars and forty cents, to me in hand paid by the said Charles Ballance at the time of the sale aforesaid, and by virtue of the statute in such case made and provided, have granted, bargained and sold, and by these presents do grant, bargain and sell, unto the said Charles Ballance, his heirs and assigns, the said one acre of land off of the east side of the southwest and southeast fraction quarters of section No. nine, of township eight north, in range eight east, situated in the county of Peoria, and State of Illinois; to have and to hold unto him, the said Charles Ballance, his heirs and assigns, forever; subject, however, to all the rights of redemption provided by law.

In witness whereof, I, Smith Frye, sheriff as aforesaid, by virtue of the authority aforesaid, have hereunto subscribed my name and affixed my seal this sixteenth day of June, 1847.

SMITH FRYE, *Sheriff.* [L. S.]

STATE OF ILLINOIS, *Peoria County, ss:*

Be it known, that on the day of the date hereof personally appeared before me, Jacob Gale, clerk of the circuit court within and for said county, Smith Frye, personally known to me to be the real person whose name appears subscribed to the foregoing deed of conveyance, as having executed the same, *to be the real person whose name appears subscribed to the foregoing deed of conveyance, as having executed the same* in the capacity of sheriff of said county, and acknowledged the execution thereof to be his free act and deed for the uses and purposes therein expressed.

In witness whereof, I have hereunto set my hand and the *and the* seal of said court at Peoria, this sixteenth day of June, A. D. 1847.

JACOB GALE, *Clerk.*

Compher's Deed.

Deed from Compher, referred to on page 6.

Know all men by these presents, that whereas, at the May term, 1845, of the circuit court of Peoria county, a judgment was obtained in said court, in favor of the State of Illinois, against the southwest and southeast fractional quarters of section No. nine, of township No. eight north, in range eight east, situated in the county of Peoria, and State of Illinois, for the sum of twenty-one dollars and forty cents, being the amount of taxes, interest and cost assessed upon the said tract of land for the year 1843; and whereas, on the ninth day of June, 1845,

Smith Frye, then sheriff of the county aforesaid, by virtue of a precept issued out of the circuit court of the county aforesaid, *by virtue of a precept issued out of the circuit court of the county aforesaid*, dated the seventh day of June, 1845, and to him directed, did expose to public sale, at the door of the court-house, in the county aforesaid, in conformity with all the requisitions of the statute in such case made and provided, the tract of land above described for the satisfaction of the judgment so rendered as aforesaid; and whereas, at the time and place aforesaid, Charles Ballance, of the county of Peoria, and State of Illinois, having offered to pay the aforesaid sum of twenty-one dollars and forty cents for one acre off of the east side of the said quarter of said section No. nine, which was the least quantity bid for, the said tract of land was stricken off to him at that price:

Now, therefore, I, William Compher, sheriff of the said county of Peoria, and successor of said Smith Frye, for and in consideration of the said sum of twenty-one dollars and forty cents paid to the above named sheriff by the said Charles Ballance at the time of the above sale, and by virtue of the statute in such case made and provided, have granted, bargained and sold, and by these presents do grant, bargain and sell, unto the said Charles Ballance, his heirs and assigns, the said one acre of land off the east side of the southwest and southeast fractional quarters of section No. nine, of township eight north, in range eight east, situated in the county of Peoria and State of Illinois; to have and to hold unto the said Charles Ballance, his heirs and assigns forever; subject, however, to all the rights of redemption provided by law.

In witness whereof, I, William Compher, sheriff, as aforesaid, by virtue of the authority aforesaid, have hereunto subscribed my name, and affixed my seal, this sixteenth day of June, 1847.

WILLIAM COMPHER, [SEAL.]
Sheriff.

STATE OF ILLINOIS,
Peoria County, ss:

I, Jacob Gale, clerk of the circuit court within and for said county, do hereby certify that William Compher, sheriff of said county, whose signature appears to the foregoing deed, and who is personally known to me to be the identical person whose name is subscribed to said deed as having executed the same, this day appeared before me, and acknowledged that he had signed, sealed and delivered the same as his free act and deed as sheriff, as aforesaid, for the uses and purposes therein expressed.

In testimony whereof I have hereunto subscribed my name and affixed my seal, at Peoria, this 16th day of June, in the year of our Lord eighteen hundred and forty-seven. [SEAL.]

JACOB GALE, *Clerk.*

Mayor of Peoria's Deed.

Copy of a Deed from the Mayor of Peoria, referred to on page 7.

Know all men by these presents, that whereas at a public sale of lots, held at the court-house in the town of Peoria, in the county of Peoria, on the 20th day of November, A. D. 1844, for taxes and costs due to said town of Peoria for the year A. D. 1844, on said lots, the same being in said town (now city) of Peoria, assessed by the authority of said town, Charles Ballance became the purchaser of lots numbered seven, eight and nine, in block numbered thirty-four (34,) and lot numbered six (6,) in block numbered thirty-eight (38,) and lot numbered eleven (11,) in block No. forty-three (43,) and lots Nos. one (1,) two (2,) and three (3,) in block No. fifty-one (51,) all in Bigelow and Underhill's addition to the town, now city of Peoria, for the sum of forty-seven dollars and thirty-five cents, and the same being and remaining wholly unredeemed from said sale: Now, know ye, that I, Charles T. Stearns, mayor of the city of Peoria, in the State of Illinois, by virtue of the several ordinances of said city, and the powers thereby vested in me, have and do hereby grant, bargain, sell and convey, unto the said Charles Ballance, said tracts of land above described, in said city; to have and to hold the same unto the said Charles Ballance, his heirs and assigns, forever.

Given under my hand and private seal, no official seal being as yet provided, this 20th day of May, 1846.

C. T. STEARNS, [L. S.]
Mayor.

STATE OF ILLINOIS,
Peoria County, ss:

I, Jonathan K. Cooper, a justice of the peace in and for the county of Peoria, do certify that on this second day of June, A. D. 1846, personally came before me, Charles T. Stearns, mayor of the city of Peoria, to me known to be the same person who, as such mayor, signed, sealed and delivered the foregoing deed of conveyance, and acknowledged that he had executed the same for the uses and purposes therein expressed.

Witness my hand and seal this 2d day of June, A. D. 1846..

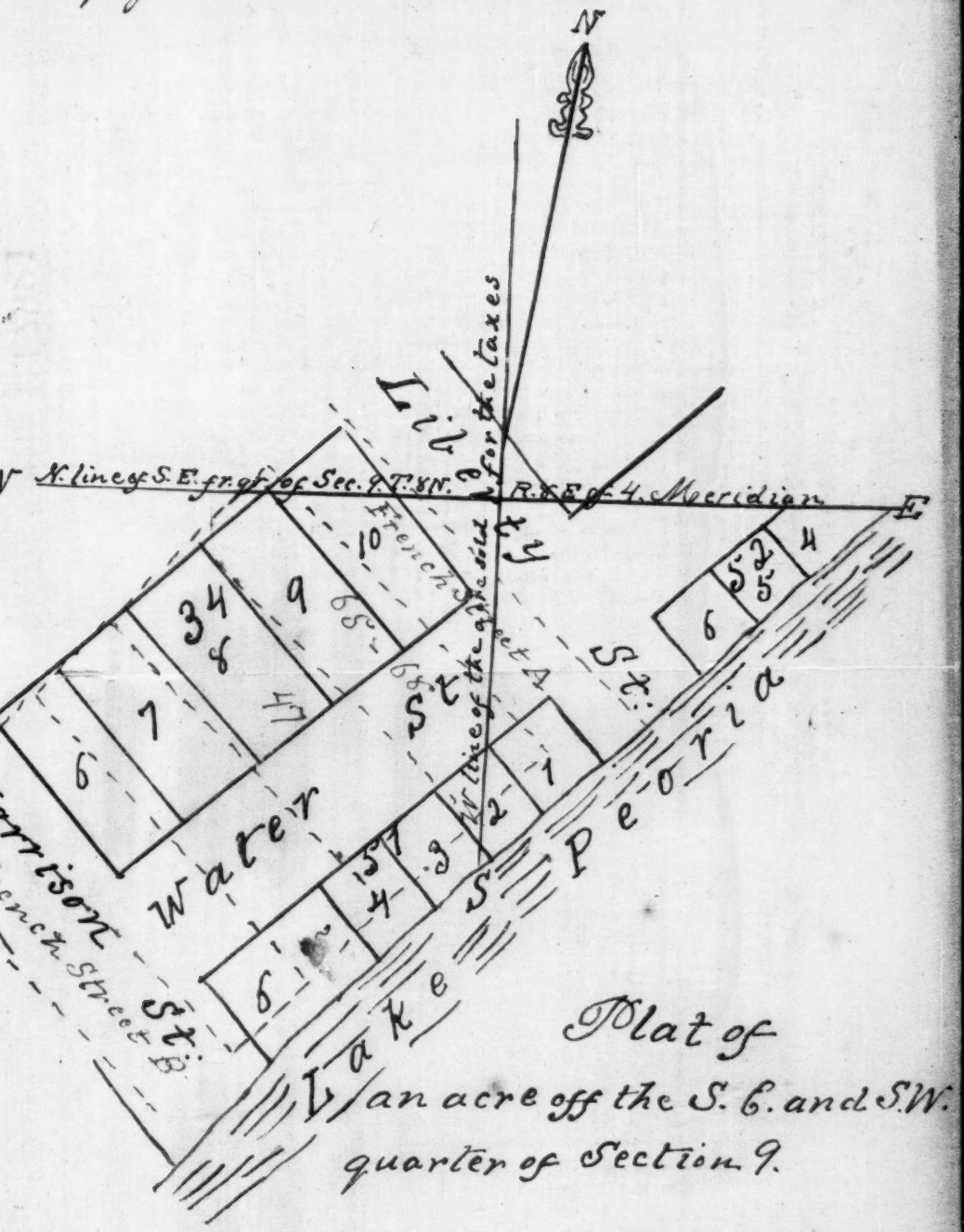
JONATHAN K. COOPER, *J. P.* [SEAL.]

Plat of an acre off the S. E. and S. W. quarter of section 9, T. 8 N., of R. 8 E. of the 4th principal meridian.

[*For plat see original, page* 67.]

No 115
W
Harri
French

15 - page 26



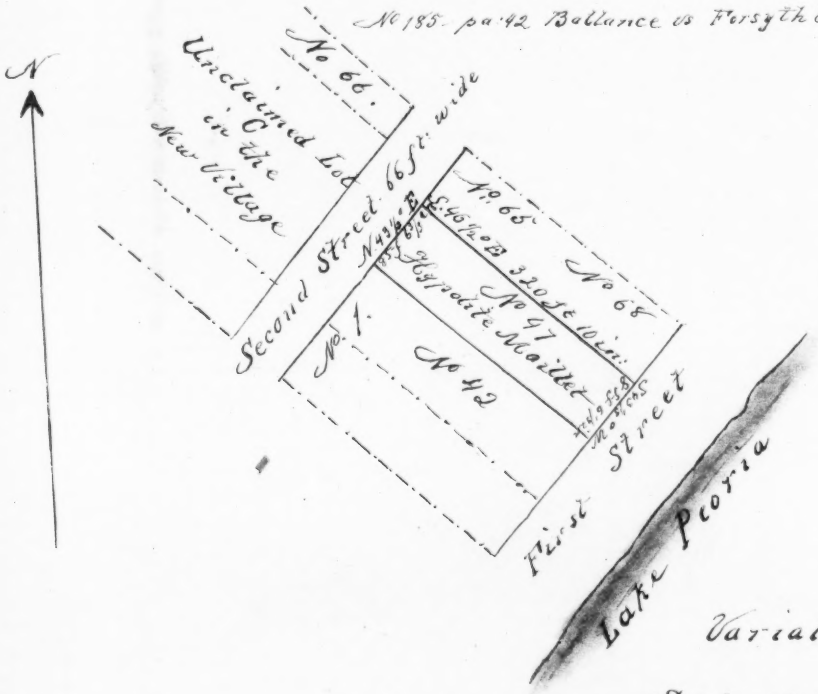
Plat of

an acre off the S. E. and S.W.

quarter of Section 9.

Plat of Lot 47

No 185 pa 42 Ballance vs Forsyth & al



Variation 8° East

Scale of 200 ft to one inch

The line from W. to E. is the line running through the centre of the section from east to west. The line at right angles with this is a line run from north to south, so as to leave just one acre east of it. The dotted lines are line of French lots. The lot marked 65–68 is the lot patented to Antoine Bourbonne. The one marked 47 is the lot patented to L. Boushier's representatives.

Plat of the French village of Peoria, as surveyed by Joseph C. Brown, approved by the surveyor general 1st Sept., 1840.

[*For plat see original, page* 68.]

The plat of lot 47, hereto attached, has the following caption, to wit:

Claim number forty-seven, situate in the southeast fractional quarter of fractional section 9, in fractional township 8 north of the base line, range 8, east of the 4th principal meridian.

Plat and description of the survey of a lot in the new village of Peoria, in the State of Illinois, confirmed to Hypolite Maillet, in right of his wife Josette Desmenchette, the late widow of Louis La Boushier, deceased, by an act of Congress approved the 3d March, 1823, entitled " An act to confirm certain claims to lots in the village of Peoria, in the State of Illinois," it being No. 47 of the report made by the register of the land office at Edwardsville, in pursuance of an act of Congress approved the 15th of May, 1820, entitled "An act for the relief of the inhabitants of the village of Peoria, in the State of Illinois."

[*For plat of lot* 47, *see original, page* 70.]

And following the plat is this paragraph, to wit:

"This lot contains 27,449 square feet and $\frac{7}{100}$ of a square foot of land, equal to 24,000 square feet, French measure." Surveyed on the 2d day of May, 1837, by Joseph C. Brown, deputy surveyor, under instructions from Daniel Dunklin, surveyor of the public lands

N° 115 - Ba. 20.

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lot

in the States of Illinois and Missouri, bearing date the 11th April, 1837.

Examined and approved this first day of September, 1840.

S. WILLIAM MILBURN,
Surveyor Public Lands in the States of Illinois and Missouri.

Bourbonne Patent.

Patent to Antoine Bourbonne, referred to page 10.

The United States of America to all to whom these presents shall come, greeting:

Whereas there has been deposited in the General Land Office a certificate numbered eighteen, of the register and receiver of the land office at Edwardsville, Illinois, whereby it appears that in the report dated 10th November, 1820, of Edward Coles, register of the land office at Edwardsville, Illinois, the claim of Antoine Bourbonne is entered as numbered sixty-five, and the claim of Louis Penconneau to the same lot is entered as number sixty-eight; and whereas it further appears, from the certificate aforesaid, that the said Antoine Bourbonne is the inhabitant or settler within the purview of the confirmatory act of Congress approved 3d March, 1823, entitled "An act to confirm certain claims to lots in the village of Peoria, in the State of Illinois," and that it has appeared to the satisfaction of the said register and receiver that the said inhabitant or settler did not, prior to the said act of 3d March, 1823, receive a confirmation of claims, or donation of any tract of land or village lot from the United States;" and that the said Antoine Bourbonne or his legal representatives, in virtue of the confirmatory act aforesaid, are entitled to a patent for a certain lot described as follows, to wit: the lot containing twenty-seven thousand four hundred and forty-nine square feet, and seven hundredths of a square foot, surveyed and designated as covered by said claims numbers sixty-five and sixty-eight, in the southeast fractional quarter of fractional section nine, in township eight north, of range eight east of the fourth principal meridian, Illinois, according to the survey approved 1st September, 1840, by the surveyor of public lands in the States of Illinois and Missouri; and whereas in the confirmatory act aforesaid, of the 3d March, 1823, it is provided that "nothing in this act contained shall be so construed to affect the rights, if any such there be, of any other person or persons to the said lots, or any part of them, derived from the United States, or any other source whatever," &c.:

Now, know ye, that in consideration of the premises, and pursuant to the second section of the act aforesaid, of the 3d March, 1823, there is granted by the United States to the said Antoine Bourbonne, or to his legal representatives, and to his or their heirs, the lot of land above described, subject to the proviso aforesaid, to have and to hold the said lot of land, with the appurtenances, unto the said Antoine Bourbonne,

or to his legal representatives, and to his or their heirs and assigns forever, subject to the proviso aforesaid.

In testimony whereof, I, James K. Polk, President of the United States, have caused these letters to be made patent, and the seal of the General Land Office to be hereunto affixed.

Given under my hand, at the city of Washington, the sixteenth day of December, in the year of our Lord one thousand eight [NO SEAL.] hundred and forty-five, and of the independence of the United States the seventieth.

JAMES K. POLK.

By the President:
By J. KNOX WALKER, *Sec'y.*

S. H. LAUGHLIN,
Recorder of the General Land Office.

Recorded vol. 10, pages 95 and 96.—Ex'd.

[*For plat of the Bourbonne lot see original, page 73.*]

Immediately below the plat 65 and 68 hereunto attached, occurs the following sentence:

This lot contains 27,449 square feet and 7–100ths of a square foot of land, equal to 24,000 square feet French measure, and it is also confirmed to Louis Bemreon (Penconnean.) See claim No. 68, the survey of which is identical with this survey.

And it was approved by the surveyor general Sept. 1st, 1840.

Le Bonshier Patent.

Patent to La Bonshier—Rep., page 9.

The United States of America to all to whom these presents shall come, greeting:

Whereas there has been deposited in the General Land Office a certificate, numbered twenty-eight, of the register and receiver of the land at Edwardsville, Illinois, for the claim numbered forty-seven in the report dated 10th November, 1820, of Edward Coles, register of the land office at Edwardsville, Illinois, which claim is entered in that report in the name of Hyolile Maillet, in right of his wife, Josette Demonchelle, the late widow of Louis L. Bonshier; and whereas it appears, from the certificate aforesaid, that the said Louis Le Bonshier is the inhabitant or settler within the purview of the confirmatory act of Congress approved 3d March, 1823, entitled "An act to confirm certain claims to lots in the village of Peoria, in the State of Illinois," and that it has

appeared to the satisfaction of said register and receiver that the said inhabitant or settler did not, prior to the said act of 3d March, 1823, receive "a confirmation of claims or donation of any tract of land or village lot from the United States," and that the said legal representatives of the said Louis Le Boshier, in virtue of the confirmatory act aforesaid, are entitled to a patent for a certain lot which is described as follows, to wit: the lot containing twenty-seven thousand four hundred and forty-nine square feet and seven hundredths of a square foot, surveyed and designated as covered by claim number forty-seven, in the south-east fractional quarter of fractional section nine, in township eight north, of range eight east, of the fourth principal meridian, Illinois, according to the survey, approved 1st September, 1840, by the surveyor of the public lands in the States of Illinois and Missouri; and whereas, in the confirmatory act aforesaid, of the 3d March, 1823, it is provided that "nothing in this act contained shall be so construed to affect the rights, if any such there be, of any other person or persons to the said lots, or any part of them, derived from the United States, or any other source whatever," &c.:

Now know ye, that in consideration of the premises, and in pursuance to the second section of the act aforesaid, of the 3d March, 1823, there is granted by the United States to the legal representatives of the said Louis Le Bonshier, and to their heirs, subject to the proviso aforesaid, the lot of land above described; to have and to hold the said lot of land, with the appurtenances, unto the said legal representatives of Louis Le Bonshier, and to their heirs and assigns forever, subject to the proviso aforesaid.

In testimony whereof, I, James K. Polk, President of the United States, have caused these letters to be made patent, and the seal of the General Land Office to be hereunto affixed.

Given under my hand, at the city of Washington, the twenty-seventh day of March, in the year of our Lord one thousand eight hundred and forty-seven, and of the independence of the United States the seventy-first.

[L. S.]

JAMES K. POLK.

By the President:

By J. KNOX WALKER, *Sec'y.*

S. H. LAUGHLIN,
Recorder of the General Land Office.

Recorded vol. 10, pages 133 and 134.

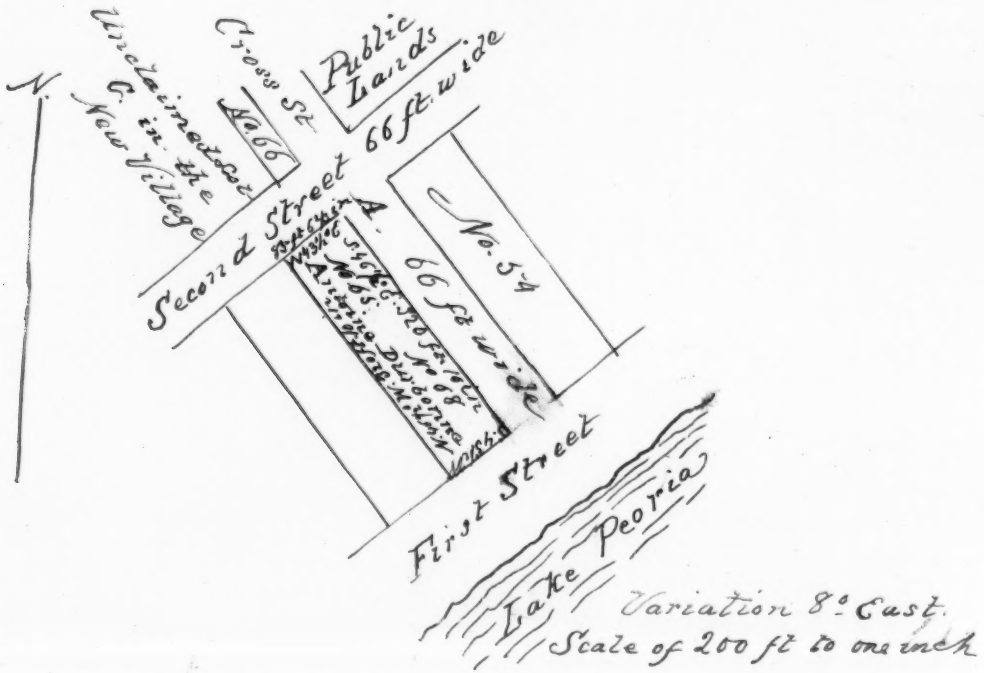
Deed from Touchette and wife.

Deed from Joseph Tonchette and wife to Robert Forsyth et al., referred to on page 10.

This deed, made and concluded this eleventh day of December, in the year of our Lord eighteen hundred and thirty-six, by and between

N 115 - Page: 28.

Plat of the Bourbonnie Lot.



Joseph Touchette and Madalene, his wife, of the county of St. Clair, in the State of Illinois, of the one part, and Robert Forsyth, Anthony R. Bouis, and Lucien Dumain, of the city and county of St. Louis, State of Missouri, of the other part, witnesseth: That the said Joseph Touchette and Madeline, his wife, for and in consideration of the sum of three hundred dollars, to them in hand paid, the receipt whereof is hereby acknowledged, have granted, bargained, sold, delivered, conveyed, and confirmed, and by these presents do grant, bargain, sell, alien, convey, and confirm unto the said Robert Forsyth, Anthony R. Bouis, and Lucien Dumain, their heirs and assigns forever, all the lots and parcels of ground lying in the county of Peoria, State of Illinois, described as follows, to wit: first, a lot in Peoria containing about a half an arpent of land, bounded northwardly by a lot formerly occupied by Louis Binet, eastwardly by a street separating it from the Illinois river, southwardly by a lot formerly occupied by Francis Willette, and eastwardly by a street, it being the same lot proved under an act of Congress entitled "An act for the relief of the inhabitants of the village of Peoria, in the State of Illinois," approved the 15th of May, 1820, and claimed by Hypolite Maillet in right of his wife, Josette Desmonschelle, widow of Louis L. Boushiere; also an out-lot containing about four arpents of land situated about half a mile west of the village of Peoria, being the same out-lot or field claimed by said Maillet in right of his wife aforesaid, and proved under the act of Congress aforesaid, which two lots or parcels of land were confirmed by an act of Congress of 3d March, 1823, and belong to said Madaline, one of the parties of the first part, as heir at law of the said Louis L. Boushier; to have and to hold the said two lots or parcels of land with the appurtenances unto the said Robert Forsyth, Anthony R. Bouis, and Louis Dumain, their heirs and assigns forever. And the said parties of the first part do covenant, promise, and agree, with the said parties of the second part, that the said parties of the first part the above described lots or parcels of ground unto the parties of the second part will warrant and forever defend against all persons lawfully claiming, or to claim, from, by, through, or under the said parties of the first part, or either of them.

In testimony whereof, the parties of the first part have set their hands and seals the day and year first aforesaid.

JOSEPH his mark ✕ TOUCHETTE. [SEAL.]

MAGDELAINE her mark ✕ TOUCHETTE. [SEAL.]

Witnesses present—

JOHN BENT,
HENRY CHOUTEAU.

Bourbonne's Deed.

Deed from Antoine Bourbonne to Robert Forsyth et al., and referred to on page 10.

Know all men, that I, Antoine Bourbonne, of Portage de Sioux, in Missouri, for and in consideration of the sum of fifteen hundred dollars to me in hand paid by Robert Forsyth, Antoine R. Bouis, and Lucien Dumain, of St. Louis, do hereby grant, sell, alien, enfeoff, confirm, and convey, unto said Forsyth, Bouis and Dumain, a lot of ground lying in Peoria, in the State of Illinois, eighty-three and a third feet in front, (more or less,) by three hundred and twenty-one (more or less) in depth, bounded northwardly by a street, southwardly by one Le Boushier, and front by the river or lake; also one other lot of ground of the same size, lying immediately back of the foregoing, there being a street between; also a piece of land lying about a quarter of a mile southwestwardly from said lots, containing five arpents, (more or less,) adjoining towards the north Francis Racine, said lots and tract of land being the same proved in the name of said Bourbonne, under an act of Congress of May 15th, 1820, entitled "An act for the relief of the inhabitants of the village of Peoria, in the State of Illinois," and confirmed by act of third March, eighteen hundred and twenty-three; also all my right, title, and interest in said claims, should the location at present made be wrong, wheresoever the same may be located, or however they may be located; to have and to hold the same lots and land and the same claims, with all rights and privileges and appurtenances thereto belonging, unto them, the said Forsyth, Bouis, and Dumain, their heirs and assigns forever. And I covenant for myself, my heirs and representatives, with the said Bouis, Forsyth, and Dumain, their heirs and assigns, that I will forever warrant and defend said lots of ground and tracts of land and claims, and every part thereof, unto them, said Bouis, Forsyth, and Dumain, their heirs and assigns, against all persons claiming, or to claim, by, through, or under me. In testimony whereof, I have hereunto set my hand and seal, this sixteenth day of September, eighteen hundred and thirty-six.

ANTOINE his ⋈ mark. BOURBONNE. [SEAL.]

Sealed, signed, and delivered in presence of—
HENRY CHOTEAU.

In the United States Circuit Court.—In Dis't of Illinois.

ROBERT FORSYTH, LUCIEN DUMAIN, vs. STENSON A. GOUDY.

SAME vs. A. F. LINCOLN. } Same.

It is agreed that Antoine R. Bouis be made co-plaintiff with said

Forsyth and Dumain, and no exception to be taken thereto by the defendants.

It is further agreed that said defendants, or Charles Ballance, their landlord, may erect buildings on the premises occupied by defendants at the time of the commencement of said suits, and in case the plaintiff recover in said causes, said defendants, or their said landlord, may, upon such recovery, remove the same, doing no injury to said land.

H. O. MERRIMAN,
Att'y for Plt'fs.

C. BALLANCE,
For himself and as Attorney for Defendants.

I, Charles Ballance, do solemnly swear that the above bill, so far as facts are stated from my own knowledge, is true, and so far as facts are stated from information from others, I believe them to be true.

C. BALLANCE.

Subscribed and sworn to in open court, this 22d July, A. D. 1852.

WM. POPE,
Clerk Cir. Court U. S. Dist. Ill's.

[*For plat see original, page* 82.]

A plat of a portion of the plat accompanying the report made by Edward Coles, register of the land office at Edwardsville, to the Secretary of the Treasury, in the fall of 1820, showing the relative position of lots 65, 68, and forty-seven, with regard to Fort Clark, as the same were proved and reported in 1820.

[*For plat see original, page* 83.]

A plat of a portion of Bigelow and Underhill's addition to Peoria and the French village, as surveyed by Brown, and approved by the surveyor general, on the 1st of Sept., 1840, showing the actual situa-

Property of the
Library of the
Medical Society
of the County of
Kings

tion of lots 65, 68, and 47, with reference to Fort Clark, as said Brown laid them off. The black lines are of Bigelow and Underhill's plat, and the dotted lines of the French lots.

The foregoing bill is endorsed: Filed July 14, 1854.

WM. POPE, *Clerk*.

And afterwards, to wit, on Monday the twenty-second day of January, in the year of our Lord one thousand eight hundred and fifty-five, in the record of the proceedings of said court, in chancery sitting, the following entry was made, to wit:

CHARLES BALLANCE
vs.
ROBERT FORSYTH et als. } In Chancery.

On motion of complainant, leave is given him to amend his bill herein.

And on the same day, to wit, the twenty-second day of January, in the year of our Lord one thousand eight hundred and fifty-five, came the said complainant, in person, into the clerk's office aforesaid, and filed his amended bill herein, in the words and figures following, to wit:

CHARLES BALLANCE
vs.
ROBERT FORSYTH et al. } In Chancery.

Said complainant, by leave of the court first had and obtained, makes the following allegations as an amendment to said bill, to wit: that said John L. Bogardus did, on the thirteenth day of July, A. D. 1832, convey by a good and sufficient warranty deed, unto Lewis Bigelow and Samuel C. McClure, "two undivided third parts of all his right, title, and interest in and unto the southeast fractional quarter section nine, in township eight north, range eight east, in the military tract in said Illinois, together with two third parts of the ferry established over the Illinois, at the outlet of Lake Peoria," &c.; which deed was duly proved and recorded in the recorder's office of Peoria county, the county in which said land lies, on the eighth day of August, A. D. eighteen hundred and thirty-two.

And afterwards, to wit, on the sixth day of June, A. D. eighteen hundred and thirty-three, said Samuel C. McClure, by his deed of that date, which was duly acknowledged on the thirteenth day of said month, conveyed all his right, title, and interest in said tract of land to Lewis *Lewis* Bigelow.

And afterwards, to wit, on the twenty-second day of June, A. D. eighteen hundred and thirty-six, said Lewis Bigelow executed to said Isaac Underhill a good and sufficient deed of conveyance to one undivided half of said tract of land, which deeds are not now in the possession or control of your orator, but he will obtain the originals and

produce them on the trial of this cause; or if that cannot be done, he will procure and have at the trial hereof, authenticated copies of said deeds; wherefore your orator prays, as heretofore he has prayed.

C. BALLANCE.

(Endorsed:) Filed Jan'y 22, 1855.

WM. POPE, *Cl'k.*

And afterwards, to wit, on the twenty-sixth day of January, in the year last aforesaid, came the said defendant, Robert Forsyth, by Williams & Lawrence, his solicitors, into the clerk's office aforesaid, and filed his demurrer to the complainant's original and amended bills of complaint in the words and figures following, to wit:

CHARLES BALLANCE
vs.
ROBERT FORSYTH,
LEWIS DUMAIN, and
ANTHONY R. BOUIS.

The defendant, Robert Forsyth, by protestation, not confessing all or any of the matters and things in the said complainant's original and amended bills contained to be true, in such manner and form as the same are therein set forth and alleged, demurs to the said bills, and for cause of demurrer shows that the said complainant has not by his said bills made such a case as entitles him in this court to any relief against this defendant, as to the matters contained in said bills, nor do said bills entitle said complainant to any relief in this court, touching any of the matters complained of. Wherefore this defendant demurs thereto, and prays the judgment of this court, whether he shall be compelled to make further answer thereto, and prays to be dismissed with his costs.

WILLIAMS & LAWRENCE,
Sol. for Defendant.

Robert Forsyth, being duly sworn, deposes and says, that the above demurrer is not interposed for delay, but in order to obtain the judgment of the court upon the law arising on said demurrer, and that he is advised by counsel to interpose the same.

ROBERT FORSYTH.

Subscribed and sworn to before me this 20th Jan'y, 1855.

S. A. CORNEAU,
U. S. Com'r Dist. Ill's.

The within demurrer is, in my opinion, well founded in point of law.

ARCHIBALD WILLIAMS,
Counsel for Def't.

(Endorsed:) Filed Jan'y 26th, 1855.

WM. POPE, *Cl'k.*

And afterwards, to wit, on Saturday, the twenty-first day of July, in the year of our Lord one thousand eight hundred and fifty-five, in the record of the proceedings of said circuit court for the northern district of Illinois, sitting as a court of chancery, the following entry was made, to wit:

CHARLES BALLANCE
vs.
ROBERT FORSYTH,
LUCIEN DUMAIN,
ANTOINE R. BOUIS.

Now at this day came the parties by their solicitors, and agree to submit to the court without argument, the demurrer of the defendant, Robert Forsyth, to the complainant's bill and amended bill herein, when the same is taken under advisement by the court.

And afterwards, to wit, on Thursday, the eleventh day of December, in the year of our Lord one thousand eight hundred and fifty-six, in the record of the proceedings of said court in said cause the following order was entered of record, to wit:

CHARLES BALLANCE
vs.
ROBERT FORSYTH, LUCIEN DUMAIN, and ANTOINE R. BOUIS. } In Chancery.

The court having fully considered and being fully advised upon the demurrer of the defendant, Robert Forsyth, heretofore filed by his counsel to the original and amended bill of the complainant herein, sustains the same; and the complainant declining to amend, but electing to stand to and abide by his said bill and amended bill:

It is thereupon considered and adjudged by the court, that the bill and amendment thereto be dismissed, and that the defendant, Robert Forsyth, have and recover of the complainant his costs by him about his defence in this behalf expended, amounting to the sum of dollars and cents, and that he have execution therefor as in cases of a judgment at law.

The following paper, purporting to be an amendment to the foregoing recited bill, appears among the papers of said cause, to wit:

The amend bill of Charles Ballance to a bill heretofore filed by him in the circuit court of the United States held at Springfield, in the State of Illinois, on the chancery side of said court, wherein said Ballance was complainant and Robert Forsyth, Lucien Dumain, and Anthony R. Bouis, were defendants.

This complainant, by leave of the court first had and obtained, further charges, that since the filing of the original bill herein, said defendant sued out a writ of possession in said action of ejectment and dispossessed your orator and all his tenants that were in possession of any part of said premises.

The precise value of all the buildings that thus fell into the hands of said defendants, and which they now hold without paying or offering to pay anything for, your orator cannot state, because they are wooden buildings, some new and some old, and it is difficult, if not impossible, to make a correct allowance for the damage done to such buildings by time, but your orator, with the aid of other persons, has made an estimate of the value of said buildings at the time he was *dispossed* [dispossessd ?]; and although in this estimate he may not be, and probably is not correct in every particular, yet as the estimate was made with a desire to be correct, he charges that the houses on said premises at the commencement of said suits were as follows, to wit:

1 small frame house, back of Keyon's, worth - - - -	$50
1 small frame house, 15 by 20 feet square, worth - - -	200
1 ditto " 20 " 50 " " " - - -	450
1 ditto " 14 " about 30 " " - - -	200
1 large " 30 " about 6 " " - - -	700
	1,600

And that the buildings built thereon since are as follows, to wit:

Lincoln & Fridley's large building, containing a store-house and cabinet warehouse, part one and part two stories, worth - -	1,300
The Keyon house, 20 by 60 feet, worth - - - - -	300
Moore's house, 20 by 60 feet, worth - - - - -	300
Barbour's house, 14 by about 30, worth - - - - -	150
Huges & Spenck's house, 32 by 36, worth - - - -	600
	2,650
Add the sum above - - - - - - - -	1,600
	4,250

Your orator states, that the use of said ground to said defendants since the commencement of said suits, without said buildings, would have been little or nothing, because said ground lies in the suburbs of the city of Peoria, where there was no demand for business houses, and where no one for present use would have either bought or leased the said ground for more than nominal prices; but your orator, believing his title to said ground and other grounds in the neighborhood was the better title, and that the title of said defendants was absolutely void, and being desirous of enhancing the value of property in that vicinity, built houses and induced others to build until the ground has been considerably enhanced in value; and but for the improvements that your orator and others not connected with the title of said defendants have made on said ground and in its immediate vicinity, it would not now be worth half the expense of a lawsuit.

There are now a number of those French claims that have been regularly allowed and patented that the speculators who hold them have never sued for, and your orator believes, and therefore charges,

have never even demanded of those whose farms include them, for no other reason than because no money has been expended in erecting buildings upon them or in their immediate vicinity so as to make them valuable, so that your orator says that if he should be so unfortunate as not to be able to establish his title in equity to said lot of ground, that still he ought to be paid for all of said buildings.

Wherefore your orator prays, as he has heretofore prayed; and further, if your honors shall not deem proper to adopt the mode pointed out by the said statute of Illinois to ascertain the value of said improvements, that the same be ascertained in any equitable mode your honors shall deem meet, and that when the same is thus ascertained, as said defendants all live in the State of Missouri, beyond the jurisdiction of this court, that the amount so ascertained be decreed to stand as a lien on said premises, and the same sold to raise the said sum; or that said defendants be decreed to restore the possession thereof to your orator, together with all the rents, issues and profits of the same, received since your *orato* [orator ?] was *dispossed* [dispossessed ?] thereof as aforesaid.

In case your honors shall decree a conveyance of said premises, your orator prays that said defendants be decreed to yield to your orator the peaceable possession of said premises, and also all patents, deeds, and other muniments of title to said premises that may be in their possession; and your orator will ever pray, &c.

C. BALLANCE.

(Endorsed:) Filed Jan'y 5th.

Northern District of Illinois, ss.

I, William H. Bradley, clerk of the circuit court of the United States for said northern district of Illinois, do hereby certify the foregoing transcript to be a true, full and perfect copy from the record of all the proceedings which have been had in said court in said cause of Charles Ballance, complainant, against Robert Forsyth, Lucien Dumain, and Antoine R. Buois, as the same now appear in my office.

In testimony whereof, I have hereunto set my hand and affixed the [SEAL.] seal of said court at my office in Chicago, in said district, this twenty-third day of January, A. D. 1857.

WM. H. BRADLEY, *Clerk.*

Filed 26th Feb., 1857.

THE UNITED STATES OF AMERICA,
District of Maryland, to wit:

At a circuit court of the United States in and for the fourth and district of Maryland, begun and held at the city of Baltimore on the first Monday in November, in the year of our Lord one thousand eight hundred and fifty-six. Present, the honorable William F. Giles, judge of Maryland district; William M. Addison, esquire, attorney; John W. Watkins, esquire, marshal; Thomas Spicer, clerk.

Among other were the following proceedings, to wit:

BENJAMIN FORD
vs.
JOHN S. WILLIAMS AND
HERMAN WILLIAMS.

Be it remembered, that heretofore, to wit, on the twenty-first day of March, in the year of our Lord one thousand eight hundred and fifty-six, the said Benjamin Ford, by Brown and Brune, his attorneys, declared in the circuit court here against the said John S. Williams and Herman Williams, in a plea of trespass on the case, and so forth, in the words and of the tenor following, to wit:

Declaration.

MARYLAND DISTRICT, *to wit:*

In the Circuit Court of the United States, for the fourth circuit in and for the Maryland district.

John S. Williams and Herman Williams, late of Maryland district, citizens of the State of Maryland, trading under the firm of John S. Williams and Brother, were summoned to answer unto Benjamin Ford, a citizen of the State of New York, in a plea of trespass on the case, &c. And whereupon the said Benjamin Ford, by Brown and Brune, his attorneys, complains, that whereas, heretofore, to wit, by a certain agreement made on the thirty-first day of October, eighteen hundred and fifty-five, at the city of Baltimore, to wit, in the district aforesaid, between the said plaintiff, by John W. Bell, his agent, of the one part, and the said defendants of the other part, and signed by the defendants, by their copartnership name, it is witnessed, that for and in consideration of the sum of one thousand dollars, the receipt whereof was thereby acknowledged, they had on that day purchased from John W. Bell, and agreed to receive from him in all the month of February next, at his option, two thousand barrels Howard street sup. flour, they paying for the same, at the rate of nine dollars per barrel, on the day the said flour was ready for delivery; and in consideration thereof, and that the said plaintiff, at the special instance

and request of the said defendants, then and there undertook and faithfully promised the said defendants to deliver the said flour to them, the said defendants, in the time and at the price aforesaid; they, the said defendants, undertook, and then and there faithfully promised the said plaintiff to accept the said flour of and from the said plaintiff, and to pay him for the same on the delivery thereof to them, the said defendants as aforesaid; and although the said plaintiff afterwards, to wit, on the twenty-second day of February, eighteen hundred and fifty-six, at the city of Baltimore aforesaid, was ready and willing, and then and there tendered and offered to deliver the said flour to the said defendants, and then and there requested the said defendants to accept the same, and to pay him for the same as aforesaid: yet the said defendants, not regarding their said promise and undertaking, did not and would not at the said time, when they were so requested as aforesaid, or at any time before or afterwards, accept the said flour or any part thereof, of or from the said plaintiff, or pay him for the same as aforesaid, but then and there wholly neglected and refused so to do. And whereas the defendants afterwards, on the first day of March, in the year eighteen hundred and fifty-six, at the city aforesaid, were indebted to the said plaintiff in the sum of five thousand dollars for goods bargained and sold by the plaintiff to the defendants at their request, and in a like sum of money, for money by the plaintiff paid for the defendants at their request, and in a like sum of money, for money then and there received by the defendants for the use of the plaintiff; and in a like sum of money, for money found to be due from the defendants to the plaintiff on an account then and there stated between them. And the defendants afterwards, on the day and year last aforesaid, at the city aforesaid, in consideration of the premises respectively in this count mentioned, then and there promised to pay the said several sums of money last above specified to the plaintiff on request; yet the defendants have disregarded their promises and have not paid any of the said sums of money or any part thereof, to the damage of the plaintiff in the sum of six thousand dollars, and thereupon he brings suit, &c.

BROWN & BRUNE, *for Pltff.*

Which said declaration is thus endorsed, to wit:

Mr. Spicer: Docket this case by consent to April term, 1856—Service of copy of declaration admitted by defendants—Brown and Brune for pltff.—Jas. L. Bartol for defendts.

And thereupon, at the first Monday in April, in the year of our Lord one thousand eight hundred and fifty-six, come into the circuit court here the parties aforesaid, by their attorneys aforesaid.

Thereupon further process of and upon the premises aforesaid, between the parties aforesaid, by consent of the said parties and their attorneys aforesaid, and by order of the court here thereon, is continued until the first Monday in November next.

At which said first Monday in November, in the year of our Lord one thousand eight hundred and fifty-six, come again into the circuit court here the parties aforesaid, by their attorneys aforesaid.

Plea and Issue.

And the said John S. Williams and Herman Williams, by their attorney aforesaid, defend the force and injury, when, &c., and say that they did not assume upon themselves in manner and form aforesaid, as the aforesaid Benjamin Ford above against them hath complained, and of this they put themselves upon the country. And the said Benjamin Ford, in like manner, &c.

Rule, Security for Costs.

And the said John S. Williams and Herman Williams, by their attorney aforesaid, pray that the said Benjamin Ford may be ruled to give security for costs in the plea aforesaid.

Whereupon it is ruled by the court here that the said Benjamin Ford give security for the costs of suit in the plea aforesaid; and it is said to the said Benjamin Ford, that if he does not give security for costs, judgment will be entered against him by default.

Security for Costs entered.

Whereupon comes into the circuit court here Philip P. Pendleton, of the said district, and undertakes for the said Benjamin Ford, that if the said Benjamin Ford, in the plea aforesaid, shall be nonsuited, or from maintaining his action aforesaid shall be precluded, then the said Benjamin Ford shall pay unto the said John S. Williams and Herman Williams all such costs and charges by them about their defence in this part sustained, which shall be adjudged unto the said John S. Williams and Herman Williams by the court here, or that he, the said Philip Pendleton, will do the same for him; therefore let a jury thereon appear before the court here immediately, by whom, &c., and who neither, &c., to recognise, &c., because as well, &c.

Whereupon, for trying the issue aforesaid, it is ordered by the court here, that twenty persons from the panel of petit jurors returned to the court here by the marshal of the Maryland district aforesaid, be drawn by ballot; and thereupon the twenty persons being so drawn by ballot and written upon two lists, one of which said lists is delivered to the counsel for the respective parties, and the counsel for each of the said parties having stricken out four persons from the said lists; thereupon the remaining twelve persons being called, come, to wit:

Jury.

Sheppard C. Leakin, George Cables, George C. Morton, William N. Dorsett, Wm. P. Patterson, John Meyers, Douglass Clopper, Elisha Carman, Jacob Beckley, James M. Henry, Thomas C. Watkins, Cardiff Tagart, who being empannelled and sworn to say the truth in the premises, upon their oath do say:

Verdict.

That the said John S. Williams and Herman Williams did not undertake and promise in manner and form as the said Benjamin Ford within against them hath complained.

Judgment.

Therefore it is considered by the court here, that the said Benjamin Ford take nothing by his declaration aforesaid, but that he be in mercy for his false clamour, and that the said John S. Williams and Herman Williams go thereof without day, &c. And it is also considered by the court here, that the said John S. Williams and Herman Williams recover against the said Benjamin Ford the sum of by the court here unto the said John S. Williams and Herman Williams, on their assent adjudged for their costs and charges by them about their defence in this behalf laid out and expended, and that they have thereof their execution against the aforesaid Benjamin Ford, &c.

Memorandum.—Before the jurors aforesaid withdrew from the bar of the court here, the said Benjamin Ford, by his attorneys aforesaid, tendered to the court here a bill of exceptions, which was by the court here signed and sealed, and which is in form following, to wit:

Plaintiff's Exceptions.

FORD
vs.
WILLIAMS.

In the Circuit Court of the United States for the fourth circuit in and for the Maryland district.

In the trial of this cause the plaintiff gave in evidence, by a competent witness, that he was then, at the time of the institution of this suit, a citizen of the State of New York, and that the defendants at the time of trial, and also at the institution of this suit, were citizens of Maryland, and partners, trading under the firm of John S. Williams and Brother.

The plaintiff then proved by a competent witness the execution of the following contract by the defendants:

Contract.

BALTO., *Oct.* 31, 1855.

For and in consideration of the sum of one dollar, the receipt whereof is hereby acknowledged, we have this day purchased from John W. Bell, and agree to receive from him in all the month of February next, at his option, two thousand barrels Howard street super. flour, we paying for the same at the rate of nine dollars per barrel, on the day the said flour is ready for delivery.

JOHN S. WILLIAMS & BRO.

2,000 How. st.; S. O., Feb'y, 1856, $9.

Evidence of Mr. Manro.

The plaintiff then proved by Mr. Manro, a competent witness, that he was for about two years a clerk of John W. Bell, of the city of Baltimore, mentioned in said contract, and so continued when said Bell disappeared from the city of Baltimore, on the 19th of December, 1855, where he has not since been seen.

That said Bell left his affairs in a very embarrassed condition, and it is said that he is now in California; that witness saw the above mentioned contract at the counting-room of said Bell before his disappearance. That on the day of the date of said contract, the following entry was made on the day-book of said Bell by witness, by the directions of said Bell:

Entry in Day-Book.

Sold J. S. Williams & Bro., for B. Ford, 2,000 Hd. st., all Feb'y, $9 00.

The plaintiff then proved by the same witness the following letter from said Bell to the plaintiff:

Letter from J. W. Bell to Benj'n Ford, 31st Oct. 1855.

BALTO., *Oct.* 31*st*, 1855.

Mr. B. FORD.

DR. SIR: Your favor of yesterday at hand, covering acc. sales 352 bbls. flour; our market not so active as yesterday; moderate sales at $9. I sold for you this morning and telegraphed you:

1,000 Ohio } At $9—10, at seller's option to 20 Jan'y.
1,000 Hw. st. }
2,000 How. st. at $9, all February.

4,000

I could not sell for all Jan'y, but came as near to it as I could. These are good sales, you may depend. Your average is now a good one; should prices advance further, sell more at a higher price. This plan can't fail to come out right.

Resp'ty,

J. W. BELL.

And the following letter from the plaintiff to said Bell:

Letter from B. Ford to J. W. Bell, N. Y., 1st Nov., 1855.

NEW YORK, *Nov.* 1, 1855.

JNO. W. BELL, esq.

DR. SIR: Yours 31st ult. at hand, and I see you have sold 2,000 bbls. more for Jan'y, to 20th, and 2,000 bbls. more for Feb'y. Things are very quiet here to-day; are waiting for steamer; considerable selling *a* 12½ on $8 87, and more on $9, for the steamer now due.

It is very hard to say how flour will work; receipts are not so large for last two days; more wheat coming than flour, being higher; it will be surprising if the flour at present prices with the great abundance of everything in the country; the demand coming so early looks as though they were deficient considerably.

Respectfully, yours,
BENJ. FORD.

Which said entry and letters it was agreed should be admitted in evidence to establish the relation of principal and agent between Ford and Bell, but not as evidence of any contract.

And further proved by the same witness, that said Bell's principal business was receiving flour on consignment, and selling it for others.

Cross-examination.

On cross-examination the said witness testified, that he did not know of any other contract than the above, made by Bell for the plaintiff with the defendants, and that plaintiff was not in Baltimore when it was made; that Bell dealt largely in flour, and had a very fair business, but chiefly for others.

Evidence of Stewart Brown.

The plaintiff then gave in evidence by Stewart Brown, a competent witness, that on the 31st of December, 1855, he delivered the following letter from Brown and Brune, the counsel of the plaintiff, to defendants:

Letter from Brown and Brune to Jno. S. Williams & Bro.

BALTIMORE, *December* 31, 1855.

GENTL'N: Mr. Benjamin Ford, of New York, is the owner of the contract dated Baltimore, October 31, 1855, made with you in the name of John W. Bell for the delivery to you in all the month of February next of two thousand barrels Howard street superfine flour, you paying for the same at the rate of nine dollars per barrel on the day said flour is ready for delivery.

The books and papers of Mr. Bell fully show that Mr. Ford is the principal in the contract, and that it was made for him at the time for Mr. Bell. If you desire any evidence in this point, we shall be able entirely to satisfy you.

As counsel for Mr. Ford, we hereby respectfully give you notice, that Mr. Ford, as vendor and principal in said contract, will carry it out on his part, and will be prepared to comply with it in all, and will expect it to be complied with by you.

Very respectfully,
BROWN & BRUNE.

Messrs. JOHN S. WILLIAMS & BRO.,
Baltimore.

And that subsequently he, the said witness, went at the request of the said Brown and Brune to the counting-room of the defendants with the above contract; showed it to the defendants; told them that he was ready to deliver for Benjamin Ford, of New York, two thousand barrels of Howard street super. flour, and referred to Mr. Grafton, who accompanied witness. They refused to take it; said they had no dealings with the plaintiff. Mr. Grafton said, he was ready to deliver the flour.

Cross-examined.

On cross-examination witness stated that both the defendants were present at said conversation.

Evidence of Mr. Grafton.

The plaintiff then gave in evidence, by Mr. Grafton, that he is a partner of the firm of Meixel & Grafton, flour merchants of the city of Baltimore; that on the 22d of February, 1855, he went with Mr. Stewart Brown to the defendants, and notified them that he was ready to deliver two thousand barrels of Howard street super. flour on account of the contract said to have been made by them on account of Mr. Benjamin Ford, of New York, if they would accept it. They replied, that they did not recognise Mr. Ford in the operation. Mr. Benjamin Ford was then a merchant in New York, engaged in the flour business, and was also running a mill in Winchester, Va. That Howard street super. flour was worth on said 22d of February $7 25 per barrel. After the 30th of November, 1855, flour gradually declined until 29th February, 1856, when such flour was worth $6 25 per barrel.

Cross-examined.

On cross-examination the witness stated that the flour he offered to deliver was principally in the warehouse of witness; the rest was in the warehouse of Messrs. Kefauver & Campbell, flour merchants in Baltimore.

That if the flour had been accepted by the defendants, the firm of witness by agreement was to receive from the plaintiff twelve and a half cents per barrel, being the same amount which witness understood from plaintiff he was to have paid said Bell.

The defendants then gave in evidence by a competent witness the following letter from themselves to said Bell, and proved that on the day of its date it was left at the place of business of said Bell, in the city of Baltimore.

Letter from J. S. Williams & Bro. to J. W. Bell, 22d Dec., 1855.

[Witness, Edward Spedden.] BALTIMORE, *22d Dec'r*, 1855.

Mr. J. W. BELL.

DEAR SIR: We hereby notify you, that on Monday, the 24th day of December, 1855, we will deposit in the Merchants' Bank of Baltimore

four thousand dollars as a margin on the flour which we have contracted to receive from you, and a margin of six hundred dollars on the corn we have contracted to receive from you; and we hereby notify you, that we require you to deposit a margin of the same amount on flour and on corn which you have contracted to deliver to us; and we hereby inform you, that unless you deposit the aforesaid margin at the Merchants' Bank on the 24th day of December, 1855, we will consider the contracts for corn and flour as null and void, and that we will withdraw the margin which we will have deposited.

Yours, respy., JOHN S. WILLIAMS & BRO.

They then proved by a competent witness the following letter from themselves to D. Sprigg, cashier of the Merchants' Bank of Baltimore, and that it was delivered to him on the day of its day.

Letter from John S. Williams & Bro. to D. Sprigg, cashier of the Merchants' Bank of Baltimore, 24th December, 1855.

BALTIMORE, *24th December*, 1855.

Mr. D. SPRIGG,
Cashier of the Merchants' Bank of Baltimore.

D'R SIR: Herewith we deposit at the Merchants' Bank of Baltimore, forty-six hundred dollars, as a margin to secure to Mr. J. W. Bell, of Baltimore, the fulfilment on our part of contracts which we have made with him to receive flour and corn; we have notified Mr. J. W. Bell that we require him to deposit to-day at the Merchants' Bank of Baltimore forty-six hundred dollars as security on his part for the fulfilment of contracts to deliver flour and corn to us.

If Mr. J. W. Bell fails to make a deposit as above of forty-six hundred dollars at the Merchants' Bank of Baltimore to-day, we claim the right to withdraw our deposit.

Very respectfully, your obedient servants,
J. S. WILLIAMS & BRO.

December 24, 1855, received with a check for $4,600.
D. SPRIGG, *Cashier.*

And further proved that on the 24th of December, 1855, a deposit of $4,600 was made by them in the said bank, as stated in said letter.

And further proved that the following letter from defendants to said Bell was on the day of its date left at the place of business of said Bell:

Letter from J. S. Williams & Bro. to J. W. Bell, 26th Dec., 1855.

BALTIMORE, *26th December*, 1855.

Mr. JNO. W. BELL:

The Merchants' Bank of Baltimore this morning has returned to us forty-six hundred dollars, the amount deposited by us in that bank on the twenty-fourth instant, as security to you for the fulfilment on our

part of contracts to receive of you flour and corn. No similar deposit having been made by you at that bank as security for the fulfilment on your part to deliver to us corn and flour, we now consider all contracts with you null and void.

Yours, respectfully,

JOHN S. WILLIAMS & BRO.

Witness—EDWARD SPEDDEN.

The plaintiff then prayed the court to instruct the jury as follows:

Plaintiff's Prayer.

The plaintiff prays the court to instruct the jury, that if they find that the contract of the 31st October, given in evidence by the plaintiff, was executed and made by the respondents; and that John W. Bell therein mentioned was then, and had been for some years previously, a commission merchant or factor in flour and other produce in the city of Baltimore; and that the said Bell in making the same acted as the agent of the plaintiff, who was then a large dealer in flour residing in the city of New York; and that on the day of the date of said contract, it was by letter communicated by said Bell to the plaintiff, and by him ratified by his letter of November 1, given in evidence; and if they further find that the plaintiff, by his attorneys, Brown and Brune, on the 31st December, 1855, addressed to the defendants the letter of that date, given in evidence, and that it was on the same day received by them; and if they further find that on the 22d day of February, 1856, the plaintiff tendered to the defendants, and was prepared to deliver two thousand barrels of Howard street flour in pursuance of said contract, and that said defendants refused to receive and accept the same; and if they further find that on said last mentioned day such flour had fallen in value: then the plaintiff is entitled to recover from the defendants the difference in value between the contract price of said flour and its market value on said day, less the additional price, if any, which they may find the plaintiff agreed to pay to Messrs. Meixel and Grafton for delivering the same.

Which instruction the court refused to grant.

And the defendants then prayed the court to instruct the jury as follows:

Defendants' Prayer.

The defendants, by their counsel, pray the court to instruct the jury, that if they shall find from the evidence in this cause, that the only contract for the delivery of flour by John W. Bell to the defendants was that offered in evidence by the plaintiff of the 31st of October, 1855, that then said plaintiff is not entitled to recover in this action.

Which instruction the court granted.

To the refusal of which instruction asked for by the plaintiff, and to the granting of which instruction asked for by the defendants, the plaintiff then craved leave to except, and prayed that the court would sign

and seal this bill of exceptions, which is accordingly done this 28th day of November, 1856.

WILLIAM F. GILES. [SEAL.]

And now here at this day, to wit, the 28th day of November, in the year of our Lord one thousand eight hundred and fifty-six, the said Benjamin Ford produced to the court here the writ of the said United States of America for the correcting of errors of and upon the premises, commanding the record and proceedings aforesaid of the judgment aforesaid, so as aforesaid rendered, with all things concerning the same, to be transmitted to the Supreme Court of the United States, to be held at the city of Washington, on the first Monday in December next, which said writ of error is in the words and of the tenor following, to wit:

THE UNITED STATES OF AMERICA, *ss:*

The President of the United States, to the Judges of the Circuit Court of the United States for the fourth circuit in and for the Maryland district, greeting:

Because in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said court, before [L. S.] you or some of you, between Benjamin Ford, plaintiff, and John S. Williams, and Herman Williams, defendants, a manifest error hath happened, to the great damage of the said Benjamin Ford, as by his complaint appears: We being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Washington on the first Monday of December next, in the said Supreme Court, to be then and there held, that the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error, what of right and according to the laws and custom of the United States should be done. Witness the honorable R. B. Taney, chief justice of our Supreme Court, the first Monday in December, in the year of our Lord one thousand eight hundred and fifty-five.

Issued 28th November, 1856.

THO. SPICER,
Cl'k Circ't C't.

In pursuance whereof, and according to the form and effect of the act of Congress in such case made and provided, a transcript of the record and proceedings of the judgment aforesaid, so as aforesaid rendered, with all things relating to the same, together with the said writ of error, are hereby transmitted to the said Supreme Court accordingly.

The United States of America, to John S. Williams and Herman Williams, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be held at the city of Washington on the first Monday in December next, pursuant to a writ of error filed in the clerk's office of the circuit court of the United States for the fourth circuit in and for the Maryland district, wherein Benjamin Ford is plaintiff, and you are defendants in error, to show cause, if any there be, why the judgment rendered against the said Benjamin Ford in the said writ of error mentioned should not be corrected, and why speedy justice should not be done to the parties in this behalf.

Witness my hand and seal this 14th day of February, in the year of our Lord one thousand eight hundred and fifty.

WILLIAM F. GILES, [SEAL.]

I acknowledge notice of the above citation.

JAS. L. BARTOL,
Att'y for Defendants.

Writ of error Bond.

Know all men by these presents, that we, R. W. Pendleton, Philip P. Pendleton, are held and firmly bound unto John S. Williams and Herman Williams, in the just and full sum of five hundred dollars lawful money of the United States, to be paid to the said John S. Williams and Herman Williams, their certain attorney, heirs, executors, administrators, or assigns, to which payment, well and truly to be made and done, we hereby bind ourselves, our and each of our heirs, executors, administrators, jointly and severally, firmly by these presents. Sealed with our seals, and dated this sixth day of February, in the year of our Lord one thousand eight hundred and fifty-seven.

Whereas, heretofore, to wit, on the twenty-first day of March, in the year of our Lord one thousand eight hundred and fifty-six, Benjamin Ford, a citizen of the State of New York, instituted his suit in the circuit court of the United States for the fourth circuit in and for the Maryland district, against the said John S. Williams and Herman Williams, in an action of trespass on the case, and so forth: And whereas, also, in the said circuit court, begun and held at the city of Baltimore, on the first Monday in November, in the year of our Lord one thousand eight hundred and fifty-six, the said John S. Williams and Herman Williams recovered their judgment against the said Benjamin Ford, for their costs and charges by them about their defence in that behalf laid out and expended: And whereas the said Benjamin Ford hath sued out the writ of the United States of America for the correcting of errors, and a citation directed to the said John S. Williams and Herman Williams, citing and admonishing them to be and appear at a Supreme Court of the United States, to be held at the city of Washington, on the first Monday in December next, to show cause, if any there be, why the judgment aforesaid, so as aforesaid